COUNTY GOVERNMENT OF BARINGO

TENDER NAME: SUPPLY OF PETROLEUM, OILS, LUBRICANTS AND LPG GAS.

TENDER NO. CGB/TNR/677788/2026-2027

ISSUED BY:

COUNTY GOVERNMENT OF BARINGO,
P.O. BOX 53 – 30400,
KABARNET – KENYA.

CLOSIN DATE: 23RD NOVEMBER, 2026.

TABLE OF CONTENTS

PREFACE iii

APPENDIX TOTHE PREFACE iv

GUIDELINES FOR PREPARATION OF TENDER DOCUMENTS iv

1. GENERAL iv
2. PART 1 - TENDERING PROCEDURES iv
3. PART 2 – PROCUREMENT ENTITY'S REQUIREMENTS v
4. PART 3 – CONDITIONS OF CONTRACT ANDCONTRACTFORMS v

INVITATION TOTENDER vii

Section I - Instructions toTenderers **1**

A GeneralProvisions **1**
1 ScopeofTender.....
2 FraudandCorruption 1
3 EligibleTenderers 1
4 EligibleGoodsandRelatedServices 3

B. Contents of RequestforTendersDocument **3**
5. SectionsofTenderingDocument **3**
6 ClarificationofTenderDocument 4
7 AmendmentofTenderDocument 4

C. PreparationofTenders **5**
8 CostofTendering 5
9 LanguageofTender 5
10 DocumentsComprisingtheTender 5
11 FormofTenderandPriceSchedules 5
12 AlternativeTenders 6
13 Tender PricesandDiscounts 6
14 CurrenciesofTenderandPayment 7
15 DocumentsEstablishingtheEligibilityandConformityoftheGoodsandRelatedServices 7
16 DocumentsEstablishingtheEligibilityandQualificationsoftheTenderer 7
17 PeriodofValidityofTenders 8
18 TenderSecurity 8
19 FormatandSigningofTender 9

D. SubmissionandOpeningofTenders **9**
20 SealingandMarkingofTenders 9
21 DeadlineforSubmissionofTenders 10
22 LateTenders 10
23 Withdrawal,Substitution,andModificationofTenders. 10
24 TenderOpening 10

E. EvaluationandComparisonofTenders **11**
25 Confidentiality 11
26 ClarificationofTenders 11
27 Deviations,Reservations,andOmissions 12
28 DeterminationofResponsiveness 12
29 Non-conformities,ErrorsandOmissions 12
30 Correction ofArithmeticalErrors 13
31 ConversiontoSingleCurrency 13
32 MarginofPreferenceandReservations 13
33 EvaluationofTenders 13
34 ComparisonofTenders 14
35 AbnormallyLowTenders 14
36. AbnormallyHighTenders 14

37. PostQualificationoftheTenderer 15
38. LowestEvaluatedTender 15
39. ProcuringEntity'sRighttoAcceptAnyTender,andtoRejectAnyorAll 15

F. Award of Contract 15
40. Award Criteria 15
41. Notice of Intention to enter into a Contract 16
42. Standstill Period 16
43. Debriefing by the Procuring Entity 16
44. Letter ofAward 16
45. Signing of Contract 16
46. Performance Security 16
47. Publication of Procurement Contract 17
48. Procurement Related Complaint 17

SECTION II – TENDER DATASHEET(TDS) 18

SECTION III - EVALUATION AND QUALIFICATIONCRITERIA 22
1. General Provisions 22
2. Evaluation of Tenders(ITT33) 22
3. MARGIN OF PREFERENCE 25
4. Post Qualification of Tenderers(ITT37) 25

SECTION IV -TENDERINGFORMS 28
Form of Tender 29
Certificate of Independent Tender Determination 32
Self-declaration Forms 33
Appendix 1 - Fraud and Corruption 36
Tenderer Information Form 38
Tenderer's Eligibility- Confidential Business Questionnaire Form 39
Tenderer's JV Members Information Form 42
Price Schedule Forms 43
FORM OF TENDER SECURITY - DEMAND BANK GUARANTEE 49
FORM OF TENDER SECURITY (TENDER BOND) 50
FORM OF TENDER-SECURING DECLARATION 51
MANUFACTURER'S AUTHORIZATION FORM 52

PART 2:SUPPLYREQUIREMENTS 53

Section V - ScheduleofRequirements 53
Notes for Preparing the Schedule of Requirements 53
1. List of Goods and Delivery Schedule 54
2. List of Related Services and Completion Schedule 55
3. TechnicalSpecifications 56
4. Drawings 58
5. Inspections andTests 59

PART 3- CONTRACT 60
SECTION VI - GENERAL CONDITIONSOFCONTRACT 61
SECTION VII - SPECIAL CONDITIONSOFCONTRACT 74
SECTION VIII -CONTRACTFORMS 78
FORM No 1: NOTIFICATION OF INTENTIONTOAWARD 79
FORM NO 2: NOTIFICATION OF AWARD - LETTEROFACCEPTANCE 82
NOTIFICATION OFAWARD - LETTEROFACCEPTANCE 83
FORM NO 3 -CONTRACTAGREEMENT 84
FORM NO. 4 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee] 85
FORM No. 5 - PERFORMANCE SECURITY [Option 2–Performance Bond] 86
FORM NO. 6 -ADVANCE PAYMENT SECURITY [Demand Bank Guarantee] 88

INVITATIONTOTENDER

PROCURINGENTITY: COUNTY GOVERNMENT OF BARINGO, P.O BOX 53-

30400 KABARNET.

CONTRACTNAMEANDDESCRIPTION: Supply and Delivery of Petroleum, Oils,

Lubricants and LPG Gas:

1. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.

2. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours (8.00 AM-5.00 PM at the address given below. Supply Chain Management office located at the Public Works Building, along Kabarnet – Iten Road during normal working hours or visit our website at www.baringo.go.ke

3. Tender documents may be obtained electronically from the Website: www.baringo.go.ke Tender documents obtained electronically will be free of charge.

4. Tender documents may be viewed and downloaded for free from the website: www.baringo.go.keTenderers who download the tender document must forward their particulars immediately to Baringo County Government box 53-30400 Kabarnet to facilitate any further clarification or addendum.

5. TheTendershallchronologicallyserializeallpagesofthetenderdocumentssubmitted.

6. Completed tenders must be delivered THROUGH IFMIS at County Treasury Public Works Building Kabarnet, along Kabarnet – Iten Road,

7. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.

8. Late tenders will be rejected.

9. The addresses referred to above are:

Address for obtaining further in formation and for purchasing tender documents

1) Name of Procuring Entity: County Government of Baringo

2) Postal Address box 53-30400 Kabarnet

B. Address for Submission of Tenders.

1) Director, Supply Chain Management

County Government of Baringo,

P.O Box 53-30400,

Kabarnet

C. PHYSICAL ADRESS: PHYSICAL ADRESS: Supply Chain Management office located at the Public Works Building Kabarnet along Kabarnet – Iten Road, during normal working hours or visit our website at www.baringo.go.ke

D. Address for Opening of Tenders.

1) Opening of tenders shall be done on the same date of closing 23rd November 2026 at PUBLIC WORKS Building Kabarnet

---

[Authorized Official (name, designation, Signature and date)]

Name _____

(*Official of the Procuring Entity issuing the invitation)*

Designation

_____

Signature

_____

Date_____

PART1-TENDERINGPROCEDURES

SECTIONI: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

1.1 The Procuring Entity as defined in the TDS invites tenders for supply of goods and, if applicable, any Related Services incidental thereto, as specified in Section V, Supply Requirements. The name, identification, and number of lots (contracts) of this Tender Document are specified in the TDS.

1.2 Throughout this tendering document:

a) The term "inwriting" means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the TDS, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;

b) If the context so requires, "singular" means "plural" and vice versa;

c) "Day" means calendar day, unless otherwise specified as "BusinessDay". A Business Day is any day that is an official working day of the Procuring Entity. It excludes official public holidays.

2. FraudandCorruption

2.1 ThePROCURINGENTITYrequirescompliancewiththeprovisionsofthePublicProcurementandAssetDisposalAct,2015 ,Section62"Declarationnottoengageincorruption".Thetendersubmittedbyapersonshallincludeadeclarationthatt hepersonshallnotengageinanycorruptorfraudulentpracticeandadeclarationthatthepersonorhisorhersub-contractorsarenotdebarredfromparticipatinginpublicprocurementproceedings.

2.2 ThePROCURINGENTITYrequirescompliancewiththeprovisionsoftheCompetitionAct2010,regardingcollusivepracti cesincontracting.Anytendererfoundtohaveengagedincollusiveconductshallbedisqualifiedandcriminaland/orci vilsanctionsmaybeimposed.Tothiseffect,Tendersshallberequiredtocompleteandsignthe"CertificateofIndepend entTenderDetermination"annexedtotheFormofTender.

2.3 UnfairCompetitiveAdvantage-
Fairnessandtransparencyinthetenderprocessrequirethatthefirmsortheir Affiliatescompetingforaspecificassignm entdonotderiveacompetitiveadvantagefromhavingprovidedconsultingservicesrelatedtothistender.Tothatend,th eProcuringEntityshallindicateinthe**DataSheet**andmakeavailabletoallthefirmstogetherwiththistenderdocument allinformationthatwouldinthatrespectgivesuchfirmanyunfaircompetitiveadvantageovercompetingfirms.

3. EligibleTenderers

3.1 ATenderermaybeafirmthatisaprivateentity,anindividual,astate-
ownedenterpriseorinstitutionsubjecttoITT3.7,oranycombinationofsuchentitiesintheformofajointventure(JV)u nderanexistingagreementorwiththeintenttoenterintosuchanagreementsupportedbyaletterofintent.Publicemplo yeesandtheircloserelatives*(spouses,children,brothers,sistersandunclesandaunts)*arenoteligibletoparticipateint hetender.

Inthecaseofajointventure,allmembersshallbejointlyandseverallyliablefortheexecutionoftheentireContractinacc ordancewiththeContractterms.TheJVshallnominateaRepresentativewhoshallhavetheauthoritytoconductallbusi nessforandonbehalfofanyandallthemembersoftheJVduringtheTenderingprocessand,intheeventtheJVisawarde dtheContract,duringcontractexecution.ThemaximumnumberofJVmembersshallbespecifiedinthe**TDS.**

3.2 PublicOfficersoftheProcuringEntity,theirSpouses,Child,Parent,BrothersorSister.Child,Parent,BrotherorSister ofaSpousetheirbusinessassociatesoragentsandfirms/organizationsinwhichtheyhaveasubstantialorcontrollingin terestshallnotbeeligibletotenderorbeawardedacontract.PublicOfficersarealsonotallowedtoparticipateinanyproc urementproceedings.

3.3 ATendershallnothaveaconflictofinterest.AnyTendererfoundtohaveaconflictofinterestshallbedisqualified.AT enderermaybeconsideredtohaveaconflictofinterestforthepurposeofthisTenderingprocess,iftheTenderer:

a) Directlyorindirectlycontrols,iscontrolledbyorisundercommoncontrolwithanothertenderer;or
b) receivesorhasreceivedanydirectorindirectsubsidyfromanotherTenderer;or
c) hasthesame-representativeorownershipasanotherTenderer;or
d) hasarelationshipwithanotherTenderer,directlyorthroughcommonthirdparties,thatputsitinapositiontoinfluencetheTenderofanotherTenderer,orinfluencethedecisionsoftheProcuringEntityregardingthisTenderingprocess;or
e) oranyofitsaffiliatesparticipatedasaconsultantinthepreparationofthedesignortechnicalspecificationsofthegoodsthatarethesubjectoftheTender;or
f) oranyofitsaffiliateshasbeenhired(orisproposedtobehired)bytheProcuringEntityorProcuringEntityfortheContractimplementation;or
g) wouldbeprovidinggoods,works,ornon-consultingservicesresultingfromordirectlyrelatedtoconsultingservicesforthepreparationorimplementationoftheprojectspecifiedintheTDSITT1.1thatitprovidedorwereprovidedbyanyaffiliatethatdirectlyorindirectlycontrols,iscontrolledby,orisundercommoncontrolwiththatfirm;orhasaclosebusinessorfamilyrelationshipwithaprofessionalstaffoftheProcuringEntity(oroftheprojectimplementingagency,who:(i)aredirectlyorindirectlyinvolvedinthepreparationofthetenderingdocumentorspecificationsoftheContract,and/ortheTenderevaluationprocessofsuchContract;or(ii)wouldbeinvolvedintheimplementationorsupervisionofsuchContractunlesstheconflictstemmingfromsuchrelationshiphasbeenresolvedinamanneracceptabletotheProcuringEntity throughouttheTenderingprocessandexecutionoftheContract.

3.4 Atenderershallnotbeinvolvedincorrupt,coercive,obstructive,collusiveorfraudulentpractice.Atendererthatisproventohavebeeninvolvedinanyofthesepracticesshallbeautomaticallydisqualified.

3.5 AfirmthatisaTenderer(eitherindividuallyorasaJVmember)shallnotsubmitmorethanoneTender,exceptforpermittedalternativeTenders.Thisincludesparticipationasasubcontractor.Suchparticipationshallresultinthedisqualificationofall Tendersinwhichthefirmisinvolved.AfirmthatisnotaTendereroraJVmember,mayparticipateasasubcontractorinmorethanoneTender.Membersofajointventuremaynotalsomakeanindividualtender,beasubcontractorinaseparatetenderorbepartofanotherjointventureforthepurposesofthesameTender.

3.6 ATenderermayhavethenationalityofanycountry,subjecttotherestrictionspursuanttoITT3.9.ATendershallbeemedtohavethenationalityofacountryiftheTendererisconstituted,incorporatedorregisteredinandoperatesinconformitywiththeprovisionsofthelawsofthatcountry,asevidencedbyitsarticlesofincorporation(orequivalentdocumentsofconstitutionorassociation)anditsregistrationdocuments,asthecasemaybe.ThiscriterionalsoshallapplytothedeterminationofthenationalityofproposedsubcontractorsorsubconsultantsforanypartoftheContractincludingrelatedServices.

3.7 ATendererthathasbeendebarredbythePPRAfromparticipatinginpublicprocurementshallbeineligibletotenderorbeawardedacontract.Thelistofdebarredfirmsandindividualsisavailablefromthe PPRA's website www.ppra.go.ke

3.8 Tendersthatarestate-ownedenterprisesorinstitutionsmaybeeligibletocompeteandbeawardedaContract(s)onlyiftheyare(i)alegalpublicentityofthestateGovernmentand/orpublicadministration,(ii)financiallyautonomousandnotreceivinganysignificantsubsidiesorbudgetsupportfromanypublicentityorGovernment,and(iii)operatingundercommerciallawandvestedwithlegalrightsandliabilitiessimilartoanycommercialenterprisetoenableitcompetewithfirmsintheprivate sectoronanequalbasis.Publicemployeesandtheircloserelativesarenoteligibletoparticipateinthetender.

3.9 Tenderersmaybeineligibleiftheircountriesoforigin(a)asamatteroflaworofficialregulations,Kenyaprohibitscommercialrelationswiththatcountry,or(b)byanactofcompliancewithadecisionoftheUnitedNationsSecurityCouncil takenunderChapterVIIoftheCharteroftheUnitedNations,Kenyaprohibitsanyimportofgoodsorcontractingforsupplyofgoodsorservicesfromthatcountry,oranypaymentstoanycountry,person,orentityinthatcountry.Atenderershallprovidesuchdocumentaryevidenceofeligibilitysatisfactorytothe ProcuringEntity,astheProcuringEntityshall reasonablyrequest.

3.10 Tenderersshallprovidethequalificationinformationstatementthatthetenderer(includingallmembersofajointventureandsubcontractors)isnotassociated,orhavebeenassociatedinthepast,directlyorindirectly,withafirmoranyofitsaffiliateswhichhavebeenengagedbytheProcuringentitytoprovideconsultingservicesforthepreparationofthedesign,specifications,andotherdocumentstobeusedfortheprocurementofthegoodsunderthisInvitationfortenders.

3.11 Wherethelawrequirestendererstoberegisteredwithcertainauthoritiesin Kenya,suchregistrationrequirementsshallbedefinedinthe**TDS**

3.12 TheCompetitionActofKenyarequiresthatfirmswishingtotenderasJointVentureundertakingswhichmayprevent, distortorlessencompetitioninprovisionofservicesareprohibitedunlesstheyareexemptinaccordancewiththeprovisionsofSection25oftheCompetitionAct,2010.JVswillberequiredtoseekforexemptionfromtheCompetitionAuthority.Exemptionshallnotbeaconditionfortender,butitshallbeaconditionofcontractawardandsignature.AJVtende

rershallbegivenopportunitytoseeksuchexemptionasaconditionofawardandsignatureofcontract.Applicationforexemptionfromthe CompetitionAuthorityofKenyamaybeaccessedfromthewebsitewww.cak.go.ke.

3.13 AKenyantenderershallprovideevidenceofhavingfulfilledhis/hertaxobligationsbyproducingacurrenttaxclearancecertificateortaxexemptioncertificateissuedbytheKenyaRevenueAuthority.

4. EligibleGoodsandRelatedServices

4.1 AlltheGoodsandRelatedServicestobesuppliedunderthe ContractshallhavetheiroriginineanycountrythatiseligibleinaccordancewithITT3.9.

4.2 ForpurposesofthisITT,theterm"goods"includescommodities,rawmaterial,machinery,equipment,andindustrialplants;and"relatedservices"includeservicessuchasinsurance,installation,training,andinitialmaintenance.

4.3 Theterm"origin"meansthecountrywherethegoodshavebeenmined,grown,cultivated,produced,manufacturedorprocessed;or,throughmanufacture,processing,orassembly,anothercommerciallyrecognizedarticleresultsthatdifferssubstantiallyinitsbasiccharacteristicsfromitscomponents.

4.4 Aprocuringentityshallensurethattheitemslistedbelowshallbesourcedfrom Kenyaandthereshallbenosubstitutionsfromforeignsources.Theaffecteditemsare:

a) motorvehicles,plantandequipmentwhichareassembledinKenya;
b) furniture,textile,foodstuffs,oilandgas,informationcommunicationtechnology,steel,cement,leather,agro-processedproducts,sanitaryproducts,andothergoodsmadeinKenya;or
c) goodsmanufactured,mined,extractedorgrowninKenya.

4.5 Anygoods,worksandproductionprocesseswithcharacteristicsthathavebeendeclaredbytherelevantnationalenvironmentalprotectionagencyorbyothercompetentauthorityasharmfultohumanbeingsandtotheenvironmentshallnotbeeligibleforprocurement.

5. SectionsofTenderingDocument

5.1 ThetenderingdocumentconsistofParts1,2,and3,whichincludeallthesectionsindicatedbelow,andshouldbereadinconjunctionwithanyAddendaissuedinaccordancewithITT8.

PART:TenderingProcedures

i) SectionI-InstructionstoTenderers(ITT)
ii) SectionII-TenderingDataSheet(TDS)
iii) SectionIII-EvaluationandQualificationCriteria
iv) SectionIV-TenderingForms

PART2:SupplyRequirements

v) SectionV-ScheduleofRequirements

PART3Contract

vi) SectionVI-GeneralConditionsofContract(GCC)

vii) SectionVII-SpecialConditionsofContract(SCC)

viii) SectionVIII-ContractForms

5.2 ThenoticeofInvitationtoTenderorthenoticetotheprequalifiedTenderersissuedbytheProcuringEntityisnotpartofthetenderingdocument.

5.3 UnlessobtaineddirectlyfromtheProcuringEntity,theProcuringEntityisnotresponsibleforthecompletenessofthedocument,responsestorequestsforclarification,theminutesofthepre-tendermeeting(ifany),oraddendatothetenderingdocumentinaccordancewithITT7.

5.4 TheTendererisexpectedtoexamineallinstructions,forms,terms,andspecificationsinthetenderingdocumentandtofurnishwithitsTenderallinformationordocumentationasisrequiredbythetenderingdocument.

6. ClarificationofTenderingDocument

6.1 ATendererrequiringanyclarificationofthe TenderDocumentshallcontacttheProcuringEntityinwritingattheProcuringEntity'saddressspecifiedinthe**TDS**orraiseitsenquiriesduringthepre-

Tendermeetingifprovidedforinaccordancewith ITT 6.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender documents in accordance with ITT 5.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS,** the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS.** Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT 7.

6.2 The Procuring Entity shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Tenderer's designated representative is invited to attend a pre-Tender meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

6.3 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.

6.4 Minutes of the pre-Tender meeting, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

6.5 The Procuring Entity shall also promptly publish anonymized (*no names*) Minutes of the pre-Tender meeting at the web page identified **in the TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 7 and not through the minutes of the pre-Tender meeting. Non-attendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

7. Amendment of Tendering Document

7.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the tendering document by issuing addenda.

7.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tender document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance with ITT 7.1.

7.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 21.2.

C. Preparation of Tenders

8. Cost of Tendering

8.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

9. Language of Tender

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

10. Documents Comprising the Tender

10.1 The Tender shall comprise the following:

a) Form of Tender prepared in accordance with ITT 11;

b) Price Schedules: completed in accordance with ITT 11 and ITT 13;

c) Tender Security or Tender-Securing Declaration, in accordance with ITT 18.1;

d) AlternativeTender:ifpermissible,inaccordancewithITT12;

e) Authorization:writtenconfirmationauthorizingthesignatoryoftheTendertocommittheTenderer,inaccordancewithITT19.3;

f) Qualifications:documentaryevidenceinaccordancewithITT16.2establishingtheTendererqualificationstoperformtheContractifitsTenderisaccepted;

g) TendererEligibility:documentaryevidenceinaccordancewithITT16.1establishingtheTenderereligibilitytotender;

h) EligibilityofGoodsandRelatedServices:documentaryevidenceinaccordancewithITT15,establishingtheeligibilityoftheGoodsandRelatedServicestobesuppliedbytheTenderer;

i) Conformity:documentaryevidenceinaccordancewithITT15.2thattheGoodsandRelatedServicesconformtothetenderdocument;and

j) anyotherdocumentrequiredintheTDS.

10.2 InadditiontotherequirementsunderITT10.1,TenderssubmittedbyaJVshallincludeacopyoftheJointVentureAgreemententeredintobyallmembers.Alternatively,aletterofintenttoexecuteaJointVentureAgreementintheeventofa successfulTendershallbesignedbyallmembersandsubmittedwiththeTender,togetherwithacopyoftheproposedAgreement.

10.3 TheTendershallfurnishintheFormofTenderinformationoncommissionsgratuities,andfees,ifany,paidortobepaidtoagentsoranyotherpartyrelatingtothisTender.

11. Form of Tender and Price Schedules

11.1 TheFormofTenderandPriceSchedulesshallbepreparedusingtherelevantformsfurnishedinSectionIV,TenderingForms.Theformsmustbecompletedwithoutanyalterationstothetext.Allblankspacesshallbefilledinwiththeinformationrequested.TheTendershallchronologicallyserialisepagesofalltenderdocumentssubmitted.

12. Alternative Tenders

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

13. Tender Prices and discounts

13.1 ThepricesquotedbytheTendererintheFormofTenderandinthePrice,Schedulesshallconformtotherequirementsspecifiedbelow.

13.2 Alllots(contracts)anditemsmustbelistedandpricedseparatelyinthePriceSchedules.

13.3 ThepricetobequotedintheFormofTenderinaccordancewithITT10.1shallbethetotalpriceoftheTender,includinganydiscountsoffered.

13.4 TheTendershallquoteanydiscountsandindicatethemethodologyfortheirapplicationintheformoftender.Conditionaldiscountswillberejected.

13.5 PricesquotedbytheTendershallbefixedduringtheperformanceoftheContractandnotsubjecttovariationonanyaccount,unlessotherwisespecified**intheTDS.**ATendersubmittedwithanadjustablepricequotationshallbetreatedas non-responsiveandshallberejected,pursuanttoITT28.However,ifinaccordancewith**theTDS**,pricesquotedbytheTendershallbesubjecttoadjustmentduringtheperformanceoftheContract,aTendersubmittedwithafixedpricequotationshallnotberejected,butthepriceadjustmentshallbetreatedaszero.

13.6 IfspecifiedinITT1.1,Tendersarebeinginvitedforindividuallots(contracts)orforanycombinationoflots(packages).Unlessotherwisespecified**intheTDS,**pricesquotedshallcorrespondto100%oftheitemsspecifiedforeachlotandto 100%ofthequantitiesspecifiedforeachitemofalot.Tendererswishingtoofferdiscountsfortheawardofmorethanone ContractshallspecifyintheirTenderthepricereductionsapplicabletoeachpackage,oralternatively,toindividualContractswithinthepackage.DiscountsshallbesubmittedinaccordancewithITT13.4providedtheTendersforalllots(contracts)areopenedatthesametime.

13.7 ThetermsEXW,CIP,CIF,DDPandothersimilartermsshallbegovernedbytherulesprescribedinthecurrenteditionofIncoterms,publishedbytheInternationalChamberofCommerce.

13.8 PricesshallbequotedasspecifiedineachPriceScheduleincludedinSectionIV,TenderingForms.Thedisaggregation ofpricecomponentsisrequiredsolelyforthepurposeoffacilitatingthecomparisonofTendersbytheProcuringEntity. ThisshallnotinanywaylimittheProcuringEntity'srighttocontractonanyofthetermsoffered.Inquotingprices,theTe nderershallbefreetousetransportationthroughcarriersregisteredinanyeligiblecountry.Similarly,theTendererma yobtaininsuranceservicesfromanyeligiblecountryinaccordancewithITT3.6,EligibleTenders.Pricesshallbeenter edinthefollowingmanner:

a) For Goods manufactured in Kenya:

I) thepriceoftheGoodsquotedEXW(ex-works,ex-factory,exwarehouse,exshowroom,oroff-the-shelf,asapplicable)finaldestinationpointindicatedinthe**TDS**,includingallcustomsdutiesandsalesan dothertaxesalreadypaidorpayableonthecomponentsandrawmaterialusedinthemanufactureorassem blyoftheGoods;

ii) anysalestaxandothertaxeswhichwillbepayableinKenyaontheGoodsiftheContractisawardedtotheT enderer;and

iii) thepriceforinlandtransportation,insurance,andotherlocalservicesrequiredtoconveytheGoodstothei rfinaldestinationspecified**intheTDS.**

b) ForGoodsmanufacturedoutsideKenya,tobeimported:

i) thepriceoftheGoods,quotedCIPnamedplaceofdestination,inKenya,asspecified**intheTDS;**

ii) thepriceforinlandtransportation,insurance,andotherlocalservicesrequiredtoconveytheGoodsfromt henamedplaceofdestinationtotheirfinaldestinationspecified**intheTDS;**

c) ForGoodsmanufacturedoutsideKenya,alreadyimported:

i) thepriceoftheGoods,includingtheoriginalimportvalueoftheGoods;plus,anymark-up(orrebate);plus,anyotherrelatedlocalcost,andcustomdutiesandotherimporttaxesalreadypaidorto bepaidontheGoodsalreadyimported;

ii) thecustomdutiesandotherimporttaxesalreadypaid(needtobesupportedwithdocumentaryevidence)ort obepaidontheGoodsalreadyimported;

iii) anysalesandothertaxesleviedinKenyawhichwillbepayableontheGoodsiftheContractisawardedtothe Tenderer;and

iv) thepriceforinlandtransportation,insurance,andotherlocalservicesrequiredtoconveytheGoodsfromth enamedplaceofdestinationtotheirfinaldestination(ProjectSite)specified**intheTDS.**

d) forRelatedServices,otherthaninlandtransportationandotherservicesrequiredtoconveytheGoodstotheirfin aldestination,wheneversuchRelatedServicesarespecifiedintheScheduleofRequirements,thepriceofeachit emcomprisingtheRelatedServices(inclusiveofanyapplicabletaxes).

14. CurrenciesofTenderandPayment

14.1 Thecurrency(ies)oftheTender,thecurrency(ies)ofawardandthecurrency(ies)ofcontractpaymentsshallbethesame .

14.2 TheTenderershallquoteinKenyashillings.Ifallowedinthe**TDS**,theTenderermayexpresstheTenderpriceinanycur rency,provideditshallusenomorethantwoforeigncurrenciesinadditiontotheKenyaShilling.

14.3 TheratesofexchangetobeusedbytheTenderershallbebasedontheexchangeratesprovidedbytheCentralBankofKe nyaonthedate30dayspriortotheactualdateoftenderopening.

15. DocumentsEstablishingtheEligibilityandConformityoftheGoodsandRelatedServices

15.1 ToestablishtheeligibilityoftheGoodsandRelatedServicesinaccordancewithITT15,Tenderersshallcompletethec ountryoforigindeclarationsinthePriceScheduleForms,includedinSectionIV,TenderingForms.

15.2 ToestablishtheconformityoftheGoodsandRelatedServicestothetenderingdocument,theTenderershallfurnishasp artofitsTenderthedocumentaryevidencethattheGoodsconformtothetechnicalspecificationsandstandardsspecifi edinSectionVII,ScheduleofRequirements.

15.3 Thedocumentaryevidencemaybeintheformofliterature,drawingsordata,andshallconsistofadetaileditembyitem descriptionoftheessentialtechnicalandperformancecharacteristicsoftheGoodsandRelatedServices,demonstrati ngsubstantialresponsivenessoftheGoodsandRelatedServicestothetechnicalspecification,andifapplicable,astate mentofdeviationsandexceptionstotheprovisionsoftheSectionVII,ScheduleofRequirements.

15.4 TheTenderershallalsofurnishalistgivingfullparticulars,includingavailablesourcesandcurrentpricesofspareparts ,specialtools,etc.,necessaryfortheproperandcontinuingfunctioningoftheGoodsduringtheperiod**specifiedinthe TDS**followingcommencementoftheuseofthegoodsbytheProcuringEntity.

15.5 Standardsforworkmanship,process,material,andequipment,aswellasreferencestobrandnamesorcataloguenumb ersspecifiedbytheProcuringEntityintheScheduleofRequirements,areintendedtobedescriptiveonlyandnotrestric tive.TheTenderermayofferotherstandardsofquality,brandnames,and/orcataloguenumbers,providedthatitdemo

nstrates,totheProcuringEntity'ssatisfaction,thatthesubstitutionsensuresubstantialequivalenceoraresuperiortoth osespecifiedintheSectionVII,ScheduleofRequirements.

16. DocumentsEstablishingtheEligibilityandQualificationsoftheTenderer

16.1 ToestablishTendereligibilityinaccordancewithITT4,TenderersshallcompletetheFormofTender,includedinSe ctionIV,TenderingForms.

16.2 ThedocumentaryevidenceoftheTendererqualificationstoperformtheContractifitsTenderisacceptedshallestablis htotheProcuringEntity'ssatisfaction:

a) that,ifrequired**intheTDS**,aTendererthatdoesnotmanufactureorproducetheGoodsitofferstosupplyshallsub mittheManufacturer'sAuthorizationusingtheformincludedinSectionIV,TenderingFormstodemonstrateth atithasbeendulyauthorizedbythemanufacturerorproduceroftheGoodstosupplytheseGoodsinKenya;

b) that,ifrequired**intheTDS**,incaseofaTendernotdoingbusinesswithintheKenya,theTendererisorwillbe(ifa wardedtheContract)representedbyanAgentinthecountryequippedandabletocarryouttheSupplier'smainten ance,repairandspareparts-stockingobligationsprescribedintheConditionsofContractand/orTechnicalSpecifications;and

c) thattheTenderermeetseachofthequalificationcriterionspecifiedinSectionIII,EvaluationandQualificationC riteria.

17. PeriodofValidityofTenders

17.1 TendersshallremainvalidfortheTenderValidityperiodspecified**intheTDS**.TheTenderValidityperiodstartsfromth edatefixedfortheTendersubmissiondeadline(asprescribedbytheProcuringEntityinaccordancewithITT21.1).AT endervalidforashorterperiodshallberejectedbytheProcuringEntityasnon-responsive.

17.2 InexceptionalcircumstancesPriortotheexpirationoftheTendervalidityperiod,theProcuringEntitymayrequestTe ndererstoextendtheperiodofvalidityoftheirTenders.Therequestandtheresponsesshallbemadeinwriting.IfaTend erSecurityisrequestedinaccordancewithITT18,itshallalsobeextendedforacorrespondingperiod.ATenderermayr efusetherequestwithoutforfeitingitsTenderSecurity.ATenderergrantingtherequestshallnotberequiredorpermitt edtomodifyitsTender,exceptasprovidedinITT17.3.

17.3 IftheawardisdelayedbyaperiodexceedingthenumberofdaystobespecifiedintheTDSdaysbeyondtheexpiryofthei nitialtendervalidityperiod,theContractpriceshallbedeterminedasfollows:

a) inthecaseof**fixedprice**contracts,theContractpriceshallbethetenderpriceadjustedbythefactorspecified**inth eTDS**;

b) inthecaseof**adjustableprice**contracts,noadjustmentshallbemade;orinanycase,tenderevaluationshallbeba sedonthetenderpricewithouttakingintoconsiderationtheapplicablecorrectionfromthoseindicatedabove.

18. TenderSecurity

18.1 TheTendershallfurnishaspartofitsTender,eitheraTender-SecuringDeclarationoraTenderSecurity,asspecified**intheTDS,**inoriginalformand,inthecaseofaTenderSecurity**,** intheamountandcurrencyspecified**intheTDS.**

18.2 ATenderSecuringDeclarationshallusetheformincludedinSectionIV,TenderingForms.

18.3 IfaTenderSecurityisspecifiedpursuanttoITT18.1,theTenderSecurityshallbeademandguaranteeinanyofthefollo wingformsattheTendereroption:

i) cash;
ii) abankguarantee;
iii) aguaranteebyaninsurancecompanyregisteredandlicensedbytheInsuranceRegulatoryAuthoritylistedbythe Authority;or
iv) aletterofcredit;or
v) guaranteebyadeposittakingmicro-financeinstitution,Saccosociety,theYouthEnterpriseDevelopmentFundortheWomenEnterpriseFund.

18.4 Ifanunconditionalguaranteeisissuedbyanon-BankfinancialinstitutionlocatedoutsideKenya,theissuingnon-BankfinancialinstitutionshallhaveacorrespondentfinancialinstitutionlocatedinKenyatomakeitenforceableunles stheProcuringEntityhasagreedinwriting,priortoTendersubmission,thatacorrespondentfinancialinstitutionisnotr equired.InthecaseofabankguaranteetheTenderSecurityshallbesubmittedeitherusingtheTenderSecurityFormin cludedinSectionIV,TenderingForms,orinanothersubstantiallysimilarformatapprovedbytheProcuringEntityprio rtoTendersubmission.TheTenderSecurityshallbevalidforthirty (30)daysbeyondtheoriginalvalidityperiodoftheTender,orbeyondanyperiodofextensionifrequestedunderITT17. 2.

18.5 IfaTenderSecurityisspecifiedpursuanttoITT18.1,anyTendernotaccompaniedbyasubstantiallyresponsiveTender Securityshallberejectedbythe ProcuringEntityasnon-responsive.

18.6 IfaTenderSecurityisspecifiedpursuanttoITT18.1,theTenderSecurityofunsuccessfulTenderersshallbereturnedas promptlyaspossibleuponthesuccessfulTenderersigningtheContractandfurnishingthePerformanceSecuritypurs uanttoITT46.TheProcuringEntityshallalsopromptlyreturnthetendersecuritytothetendererswheretheprocureme ntproceedingsareterminated,alltendersweredetermined non-responsiveorabidderdeclinestoextendtendervalidityperiod.

TheTenderSecurityofthesuccessfulTenderershallbereturnedaspromptlyaspossibleoncethesuccessfulTendererhassignedtheContr actandfurnishedtherequiredPerformanceSecurity.

18.7 TheTenderSecuritymaybeforfeitedortheTenderSecuringDeclarationexecuted:
a) ifaTendererwithdrawsitsTenderduringtheperiodofTendervalidityspecifiedbytheTendererintheFormofTe nder,oranyextensionthereto providedbytheTenderer;or
b) ifthesuccessfulTendererfailsto:
i) signtheContractinaccordancewithITT45;or
ii) furnishaPerformanceSecurityinaccordancewithITT46.

18.8 WheretendersecuringdeclarationisexecutedtheProcuringEntityshallrecommendtothePPRAthatPPRAdebarsth eTenderer fromparticipatinginpublicprocurementasprovidedinthelaw.

18.9 TheTenderSecurityorTender-SecuringDeclarationofaJVmustbeinthenameoftheJVthatsubmitstheTender.IftheJVhasnotbeenlegallyconstitut edintoalegallyenforceableJVatthetimeofTendering,theTenderSecurityorTender-SecuringDeclarationshallbeinthenamesofallfuturemembersasnamedintheletterofintentreferredtoinITT3.1andI TT10.2.

18.10 Atenderershallnotissueatendersecuritytoguaranteeitself.

19. FormatandSigningofTender

19.1 TheTendershallprepareoneoriginalofthedocumentscomprisingtheTenderasdescribedinITT11andclearlymar kit“ORIGINAL.”AlternativeTenders,ifpermittedinaccordancewithITT12,shallbeclearlymarked“ALTERNAT IVE.”Inaddition,theTendershallsubmitcopiesoftheTender,inthenumber**specifiedintheTDS**andclearlymarkth em“COPY.”Intheeventofanydiscrepancybetweentheoriginalandthecopies,theoriginalshallprevail.

19.2 Tenderersshallmarkas“CONFIDENTIAL”informationintheirTenderswhichisconfidentialtotheirbusiness.This mayincludeproprietaryinformation,tradesecrets,orcommercialorfinanciallysensitiveinformation.

19.3 TheoriginalandallcopiesoftheTendershallbetypedorwritteninindelibleinkandshallbesignedbyapersondulyauth orizedtosignonbehalfoftheTenderer.Thisauthorizationshallconsistofawrittenconfirmation**asspecifiedintheTD S**andshallbeattachedtotheTender.Thenameandpositionheldbyeachpersonsigningtheauthorizationmustbetyped orprintedbelowthesignature.AllpagesoftheTenderwhereentriesoramendmentshavebeenmadeshallbesignedori nitialledbythepersonsigningtheTender.

19.4 IncasetheTendererisaJV,theTendershallbesignedbyanauthorizedrepresentativeoftheJVonbehalfoftheJV,andso astobelegallybindingonallthemembersasevidencedbyapowerofattorneysignedbyeachmembers'legallyauthoriz edrepresentatives.

19.5 Anyinter-lineation,erasures,oroverwritingshallbevalidonlyiftheyaresignedorinitialledbythepersonsigningtheTender.

D. SubmissionandOpeningofTenders

20 SealingandMarkingofTenders

20.1 Dependingonthesizesorquantitiesorweightofthetenderdocuments,atendermayuseanenvelope,packageorcont ainer.TheTendershalldelivertheTenderinasinglesealedenvelope,orinasinglesealedpackage,orinasinglesealed containerbearingthenameandReferencenumberoftheTender,addressedtotheProcuringEntityandawarningnotto openbeforethetimeanddateforTenderopeningdate.Withinthesingleenvelope,packageorcontainer,theTenderers hallplacethefollowingseparate,sealedenvelopes:
a) inanenvelopeorpackageorcontainermarked“ORIGINAL”,alldocumentscomprisingtheTender,asdescribe dinITT11;and
b) inanenvelopeorpackageorcontainermarked“COPIES”,allrequiredcopiesoftheTender;and
c) ifalternativeTendersarepermittedinaccordancewithITT12,andifrelevant:

i) inanenvelopeorpackageorcontainermarked“ORIGINAL–ALTERNATIVETENDER”,thealternativeTender;and
ii) intheenvelopeorpackageorcontainermarked“COPIES-ALTERNATIVETENDER”,allrequiredcopiesofthealternativeTender.

Theinnerenvelopesorpackagesorcontainersshall:

d) bearthenameandaddressoftheProcuringEntity.
e) bearthenameandaddressoftheTenderer;and
f) bearthenameandReferencenumberoftheTender.

20.2 Whereatenderpackageorcontainercannotfitinthetenderbox,theprocuringentityshall:

a) SpecifyintheTDSwheresuchdocumentsshouldbereceived.
b) maintainarecordoftendersreceivedandissueacknowledgementreceiptnotetoeachtendererspecifyingtimeanddateofreceipt.
c) Ensurealltendersreceivedarehandedovertothetenderopeningcommitteeforopeningatthespecifiedopening placeandtime.

20.3 Ifanenvelopeorpackageorcontainerisnotsealedandmarkedasrequired,the*ProcuringEntity*willassumenoresponsibilityforthemisplacementorprematureopeningoftheTender.Tendersmisplacedoropenedprematurelywillnotbeaccepted.

21. Deadline for Submission of Tenders

21.1 TendersmustbereceivedbytheProcuringEntityattheaddressandnolaterthanthedateandtimespecifiedintheTDS. WhensospecifiedintheTDS,TenderersshallhavetheoptionofsubmittingtheirTenderselectronically.TendererssubmittingTenderselectronicallyshallfollowtheelectronicTendersubmissionproceduresspecifiedintheTDS.

21.2 TheProcuringEntitymay,atitsdiscretion,extendthedeadlineforthesubmissionofTendersbyamendingthetenderingdocumentinaccordancewithITT7,inwhichcaseallrightsandobligationsoftheProcuringEntityandTendererspreviouslysubjecttothedeadlineshallthereafterbesubjecttothedeadlineasextended.

22. LateTenders

22.1 TheProcuringEntityshallnotconsideranyTenderthatarrivesafterthedeadlineforsubmissionofTenders.AnyTenderreceivedbytheProcuringEntityafterthedeadlineforsubmissionofTendersshallbedeclaredlate,rejected,andreturnedunopenedtotheTenderer.

23. Withdrawal,Substitution,andModificationofTenders

23.1 ATenderermaywithdraw,substitute,ormodifyitsTenderafterithasbeensubmittedbysendingawrittennotice,dulysignedbyanauthorizedrepresentative,andshallincludeacopyoftheauthorization(thepowerofattorney)inaccordancewithITT19.3,(exceptthatwithdrawalnoticesdonotrequirecopies).Thecorrespondingsubstitutionormodificationoftheirtendermustaccompanytherespectivewrittennotice.Allnoticesmustbe:

a) preparedandsubmittedinaccordancewithITT20and21(exceptthatwithdrawalnoticesdonotrequirecopies), andinaddition,therespectiveenvelopesshallbeclearlymarked“WITHDRAWAL,”“SUBSTITUTION,”or“MODIFICATION;”and
b) receivedbytheProcuringEntitypriortothedeadlineprescribedforsubmissionofTenders,inaccordancewithITT22.

23.3 TendersrequestedtobewithdrawninaccordancewithITT23.1shallbereturnedunopenedtotheTenderers.

23.4 NoTendermaybewithdrawn,substituted,ormodifiedintheintervalbetweenthedeadlineforsubmissionofTendersandtheexpirationoftheperiodofTendervalidityspecifiedbytheTendererontheFormofTenderoranyextensionthereof.

24. TenderOpening

24.1 ExceptasinthecasesspecifiedinITT23,theProcuringEntityshall,attheTenderopening,publiclyopenandreadoutall Tendersreceivedbythedeadlineatthedate,timeandplacespecifiedintheTDSinthepresenceofTenderers'designatedrepresentativeswhochoosetoattend,includingtoattendanyspecificelectronictenderopeningproceduresifelectronictenderingispermittedinaccordancewithITT21.1,shallbeasspecifiedintheTDS.

24.2 First,envelopesmarked“WITHDRAWAL”shallbeopenedandreadoutandtheenvelopewiththecorrespondingTen dershallnotbeopened,butreturnedtotheTenderer.Ifthewithdrawalenvelopedoesnotcontainacopyofthe“powerofa ttorney”confirmingthesignatureasapersondulyauthorizedtosignonbehalfoftheTenderer,thecorrespondingTend erwillbeopened.NoTenderwithdrawalshallbepermittedunlessthecorrespondingwithdrawalnoticecontainsavali dauthorizationtorequestthewithdrawalandisreadoutatTenderopening.

24.3 Next,envelopesmarked“SUBSTITUTION”shallbeopenedandreadoutandexchangedwiththecorrespondingTen derbeingsubstituted,andthesubstitutedTendershallnotbeopened,butreturnedtotheTenderer.NoTendersubstitutio nshallbepermittedunlessthecorrespondingsubstitutionnoticecontainsavalidauthorizationtorequestthesubstituti onandisreadoutatTenderopening.

24.4 Next,envelopesmarked“MODIFICATION”shallbeopenedandreadoutwiththecorrespondingTender.NoTender modificationshallbepermittedunlessthecorrespondingmodificationnoticecontainsavalidauthorizationtorequest themodificationandisreadoutatTenderopening.

24.5 Next,allremainingenvelopesshallbeopenedoneatatime,readingout:thenameoftheTendererandwhetherthereisa modification;thetotalTenderPrices,perlot(contract)ifapplicable,includinganydiscountsandalternativeTenders;t hepresenceorabsenceofaTenderSecurity,ifrequired;andanyotherdetailsastheProcuringEntitymayconsiderappr opriate.

24.6 OnlyTenders,alternativeTendersanddiscountsthatareopenedandreadoutatTenderopeningshallbeconsideredfurt herforevaluation.TheFormofTenderandpagesoftheBillsofQuantitiesaretobeinitialedbythemembersofthetender openingcommitteeattendingtheopening.Thenumberofrepresentativesoftheprocuringentitytosignshallbespeci fiedintheTDS.

24.7 TheProcuringEntityshallneitherdiscussthemeritsofanyTendernorrejectanyTender(exceptforlateTenders,inacc ordancewithITT22.1).

24.8 TheProcuringEntityshallpreparearecordoftheTenderopeningthatshallinclude,asaminimum:
a) thenameoftheTendererandwhetherthereisawithdrawal,substitution,ormodification;
b) theTenderPrice,perlot(contract)ifapplicable,includinganydiscounts;
c) anyalternativeTenders;
d) thepresenceorabsenceofaTenderSecurityorTender-SecuringDeclaration,ifonewasrequired;
e) numberofpagesofeachtenderdocumentsubmitted.

24.9 TheTenderers'representativeswhoarepresentshallberequestedtosigntherecord.TheomissionofaTenderersignat ureontherecordshallnotinvalidatethecontentsandeffectoftherecord.Acopyofthetenderopeningregistershallbeis suedtoaTendereruponrequest.

E. EvaluationandComparisonofTenders

25. Confidentiality

25.1 InformationrelatingtotheevaluationofTendersandrecommendationofcontractaward,shallnotbedisclosedtoTend ererseranyotherpersonsnotofficiallyconcernedwiththetenderingprocessuntiltheinformationonIntentiontoAwar dtheContractistransmittedtoallTenderersinaccordancewithITT41.

25.2 AnyeffortbyaTenderertoinfluencetheProcuringEntityintheevaluationorcontractawarddecisionsmayresultinthe rejectionofitsTender.

25.3 NotwithstandingITT25.2,fromthetimeofTenderopeningtothetimeofContractAward,ifanyTendererwishestocon tacttheProcuringEntityonanymatterrelatedtotheTenderingprocess,itshoulddosoinwriting.

26. ClarificationofTenders

26.1 Toassistintheexamination,evaluation,comparisonoftheTenders,andqualificationoftheTenderers,theProcuringE ntitymay,atitsdiscretion,askanyTendererforaclarificationofitsTender.AnyclarificationsubmittedbyaTenderer in respecttoitsTenderandthatisnotinresponsetoarequestbytheProcuringEntityshallnotbeconsidered.TheProcuring Entity'srequestforclarificationandtheresponseshallbeinwriting.No

change,includinganyvoluntaryincreaseordecrease,inthepricesorsubstanceoftheTendershallbesought,offered,or permittedexcepttoconfirmthecorrectionofarithmeticerrorsdiscoveredbytheProcuringEntityintheEvaluationoft heTenders,inaccordancewithITT30.

IfaTendererdoesnotprovideclarificationsofitsTenderbythedateandtimesetintheProcuringEntity'srequestforclari fication,itsTendermayberejected.

27. Deviations,Reservations,andOmissions

27.1 DuringtheevaluationofTenders,thefollowingdefinitionsapply:

a) "Deviation"isadeparturefromherequirementsspecifiedintheTenderingdocument;

b) "Reservation"isthesettingoflimitingconditionsorwithholdingfromcompleteacceptanceoftherequirement sspecifiedinthetenderingdocument;and

c) "Omission"isthefailuretosubmitpartorallofthe informationordocumentationrequiredinthetenderingdocu ment.

28. DeterminationofResponsiveness

28.1 TheProcuringEntity'sdeterminationofaTender'sresponsivenessistobebasedonthecontentsoftheTenderitself,asd efinedinITT28.2.

28. AsubstantiallyresponsiveTenderisonethatmeetstherequirementsofthetenderingdocumentwithoutmaterialdevia tion,reservation,oromission.Amaterialdeviation,reservation,oromissionisonethat:

a) ifaccepted,would:

i) affectinanysubstantialwaythescope,quality,orperformanceoftheGoodsandRelatedServicesspecifiedi ntheContract;or

ii) limitinanysubstantialway,inconsistentwiththetenderingdocument,theProcuringEntity'srightsortheT endererobligationsundertheContract;or

b) ifrectified,wouldunfairlyaffectthecompetitivepositionofotherTendererspresentingsubstantiallyresponsiv eTenders.

28.2 TheProcuringEntityshallexaminethetechnicalaspectsoftheTendersubmittedinaccordancewithITT15andITT16, inparticular,toconfirmthatallrequirementsofSectionVII,ScheduleofRequirementshavebeenmetwithoutanymat erialdeviationorreservation,oromission.

28.3 IfaTenderisnotsubstantiallyresponsivetotherequirementsoftenderingdocument,itshallberejectedbytheProcurin gEntityandmaynotsubsequentlybemaderesponsivebycorrectionofthematerialdeviation,reservation,oromission.

29. Non-conformities,ErrorsandOmissions

29.1 ProvidedthataTenderissubstantiallyresponsive,theProcuringEntitymaywaiveanynon-conformitiesintheTender.

29.2 ProvidedthataTenderissubstantiallyresponsive,theProcuringEntitymayrequestthattheTendersubmitthenecess aryinformationordocumentation,withinareasonableperiodoftime,torectifynonmaterialnon-conformitiesoromissionsintheTenderrelatedtodocumentationrequirements.Suchomissionshallnotberelatedtoan yaspectofthepriceoftheTender.FailureoftheTenderertocomplywiththerequestmayresultintherejectionofitsTend er.

29.3 ProvidedthataTenderissubstantiallyresponsive,theProcuringEntityshallrectifyquantifiablenonmaterialnon-conformitiesrelatedtotheTenderPrice.Tothiseffect,theTenderPriceshallbeadjusted,forcomparisonpurposesonly, toreflectthepriceofamissingornon-conformingitemorcomponentinthemannerspecified**intheTDS**.Theadjustmentshallbebasedonthe***average***priceo ftheitemorcomponentasquotedinothersubstantiallyresponsiveTenders.Ifthepriceoftheitemorcomponentcannot bederivedfromthepriceofothersubstantiallyresponsiveTenders,theProcuringEntityshalluseitsbestestimate.

30. ArithmeticalErrors

30.1 Thetendersumassubmittedandreadoutduringthetenderopeningshallbeabsoluteandfinalandshallnotbethesubject ofcorrection,adjustmentoramendmentinanywaybyanypersonorentity.

30.2 ProvidedthattheTenderissubstantiallyresponsive,theProcuringEntityshallhandleerrorsonthefollowingbasis:

a) Anyerrordetectedifconsideredamajordeviationthataffectsthesubstanceofthetender,shallleadtodisqualific ationofthetenderasnon-responsive.

b) Anyerrorsinthesubmittedtenderarisingfromamiscalculationofunitprice,quantity,subtotalandtotalbidprice shallbeconsideredasamajordeviationthataffectsthesubstanceofthetenderandshallleadtodisqualificationof thetenderasnon-responsive.and

c) ifthereisadiscrepancybetweenwordsandfigures,theamountinwordsshallprevail.

30.2Tenderersshallbenotifiedofanyerrordetectedintheirbidduringthenotificationofaward.

31. ConversiontoSingleCurrency

31.1 Forevaluationandcomparisonpurposes,thecurrency(ies)oftheTendershallbeconvertedinasinglecurrencyasspeci fied**intheTDS.**

32. MarginofPreferenceandReservations

32.1 Amarginofpreferencemaybeallowedonlocallymanufacturedgoodsonlywhenthecontractisopentointernationalte ndering,wherethetenderislikelytoattractforeigngoodsandwherethecontractexceedsthethresholdspecifiedinthe Regulations.

32.2 Forpurposesofgrantingamarginofpreferenceonlocallymanufacturedgoodsunderinternationalcompetitivetender ing,aprocuringentityshallnotsubjecttheitemslistedbelowtointernationaltenderandhencenomarginofpreferences hallbeallowed.Theaffecteditemsare:

a) motorvehicles,plantandequipmentwhichareassembledinKenya;

b) furniture,textile,foodstuffs,oilandgas,informationcommunicationtechnology,steel,cement,leatheragro-processing,sanitaryproducts,andothergoodsmadeinKenya;or

c) goodsmanufactured,mined,extractedorgrowninKenya.

32.3 AmarginofpreferenceshallnotbeallowedunlessitisspecifiedsointheTDS.

32.4 Contractsprocuredonbasisofinternationalcompetitivetenderingshallnotbesubjecttoreservationstospecificgroup ssasprovidedinITT32.5.

32.5 Whereitisintendedtoreserveacontracttoaspecificgroupofbusinesses(thesegroupsareSmallandMediumEnterpris es,WomenEnterprises,YouthEnterprisesandEnterprisesofpersonslivingwithdisability,asthecasemaybe),andwh oareappropriatelyregisteredassuchbytheauthoritytobespecifiedintheTDS,aprocuringentityshallensurethatthein vitationtotenderspecificallyindicatesthatonlybusinessesorfirmsbelongingtothespecifiedgroupareeligibletotend erasspecifiedintheTDS.Notendershallbereservedtomorethanonegroup.IfnotsostatedintheTenderdocuments,th einvitationtotenderwillbeopentoallinterestedtenderers.

33. EvaluationofTenders

33.1 TheProcuringEntityshallusethecriteriaandmethodologieslistedinthisITTandSectionIII,EvaluationandQualific ationcriteria.Nootherevaluationcriteriaormethodologiesshallbepermitted.Byapplyingthecriteriaandmethodolo gies,theProcuringEntityshalldeterminetheLowestEvaluatedTender.ThisistheTenderoftheTendererthatmeetsthe qualificationcriteriaandwhoseTenderhasbeendeterminedtobe:

a) substantiallyresponsivetothetenderdocuments;and

b) thelowestevaluatedprice.

33.2 PriceevaluationwillbedoneforItemsorLots(contracts),asspecified**intheTDS;**andtheTenderPriceasquotedinaccordancewithITT14.ToevaluateaTender,theProcuringEntityshallconsiderthefollowing:
a) priceadjustmentduetounconditionaldiscountsofferedinaccordancewithITT13.4;
b) convertingtheamountresultingfromapplying(a)and(b)above,ifrelevant,toasinglecurrencyinaccordancewithITT31;
c) priceadjustmentduetoquantifiablenonmaterialnon-conformitiesinaccordancewithITT29.3;and
d) anyadditionalevaluationfactorsspecified**intheTDS**andSectionIII,EvaluationandQualificationCriteria.

33.3 TheestimatedeffectofthepriceadjustmentprovisionsoftheConditionsofContract,appliedovertheperiodofexecutionoftheContract,shallnotbeconsideredinTenderevaluation.

33.4 WherethetenderinvolvesmultiplelotsorcontractS,thetendererwillbeallowedtotenderforoneormorelots(contracts).EachlotorcontractwillbeevaluatedinaccordancewithITT33.2.Themethodologytodeterminethelowestevaluatedtendererortenderersbasedonelot(contract)orbasedonacombinationoflots(contracts),willbespecifiedinSectionIII,EvaluationandQualificationCriteria.InthecaseofmultiplelotsorcontractS,tendererwillbewillberequiredtopreparetheEligibilityandQualificationCriteriaFormforeachLot.

33.5 TheProcuringEntity'sevaluationofaTenderwillincludeandconsider:
a) inthecaseofGoodsmanufacturedinKenya,salesandothersimilartaxes,whichwillbepayableonthegoodsifacontractisawardedtotheTenderer;
b) inthecaseofGoodsmanufacturedoutsideKenya,alreadyimportedortobeimported,customsdutiesandotherimporttaxesleviedontheimportedGood,salesandothersimilartaxes,whichwillbepayableontheGoodsifthecontractisawardedtotheTenderer;

33.6 TheProcuringEntity'sevaluationofaTendermayrequiretheconsiderationofotherfactors,inadditiontotheTenderPricequotedinaccordancewithITT14.Thesefactorsmayberelatedtothecharacteristics,performance,andtermsandconditionsofpurchaseoftheGoodsandRelatedServices.Theeffectofthefactorsselected,ifany,shallbeexpressedinmonetarytermstofacilitatecomparisonofTenders,unlessotherwisespecifiedinthe**TDS**fromamongstthosesetoutinSectionIII,EvaluationandQualificationCriteria.TheadditionalcriteriaandmethodologiestobeusedshallbeasspecifiedinITT33.2(d).

34. ComparisonofTenders

34.1 TheProcuringEntityshallcomparetheevaluatedcostsofallsubstantiallyresponsiveTendersestablishedinaccordancewithITT33.2todeterminetheTenderthathasthelowestevaluatedcost.Thecomparisonshallbeonthebasisoftotalcost(placeoffinaldestination)pricesforallgoodsandallprices,pluscostofinlandtransportationandinsurancetoplaceofdestination,forgoodsmanufacturedwithintheKenya,togetherwithpricesforanyrequiredinstallation,training,commissioningandotherservices.

35. AbnormallyLowTenders

35.1 AnAbnormallyLowTenderisonewheretheTenderprice,incombinationwithotherconstituentelementsoftheTender,appearsunreasonablylowtotheextentthattheTenderpriceraisesmaterialconcernswiththeProcuringEntityastothecapabilityoftheTenderertoperformtheContractfortheofferedTenderprice.

35.2 IntheeventofidentificationofapotentiallyAbnormallyLowTenderbytheevaluationcommittee,theProcuringEntityshallseekwrittenclarificationfromtheTenderer,includingadetailedpriceanalysesofitsTenderpriceinrelationtothesubjectmatterofthecontract,scope,deliveryschedule,allocationofrisksandresponsibilitiesandanyotherrequirementsofthetenderingdocument.

35.3 Afterevaluationofthepriceanalysis,intheeventthattheProcuringEntitydeterminesthattheTendererhasfailedtodemonstrateitscapabilitytoperformthecontractfortheofferedTenderprice,theProcuringEntityshallrejecttheTender.

36. AbnormallyHighTenders

36.4 Anabnormallyhighpriceisonewherethetenderprice,incombinationwithotherconstituentelementsofthe

Tender,appearsunreasonablytoohightotheextentthattheProcuringEntityisconcernedthatit(theProcuringEntity)maynotbegettingvalueformoneyoritmaybepayingtoohighapriceforthecontractcomparedwithmarketpricesorthatgenuinecompetitionbetweenTenderersiscompromised.

36.5 Incaseofanabnormallyhightenderprice,theProcuringEntityshallmakeasurveyofthemarketprices,checkiftheestimatedcostofthecontractiscorrectandreviewtheTenderDocumentstocheckifthespecifications,scopeofworkandconditionsofcontractarecontributorytotheabnormallyhightenders.TheProcuringEntitymayalsoseekwrittenclarificationfromthetendereronthereasonforthehightenderprice.TheProcuringEntityshallproceedasfollows:

i) Ifthetenderpriceisabnormallyhighbasedonwrongestimatedcostofthecontract,theProcuringEntitymayacceptornotacceptthetenderdependingontheProcuringEntity'sbudgetconsiderations.

ii) Ifspecifications,scopeofworkand/orconditionsofcontractarecontributorytotheabnormallyhightenderprices,theProcuringEntityshallrejectalltendersandmayretenderforthecontractbasedonrevisedestimates,specifications,scopeofworkandconditionsofcontract,asthecasemaybe.

36.6 IftheProcuringEntitydeterminesthattheTenderPriceisabnormallytoohighbecausegenuinecompetitionbetweentenderersiscompromised(*oftenduetocollusion,corruptionorothermanipulations*),theProcuringEntityshallrejectallTendersandshallinstituteorcauserelevantGovernmentAgenciestoinstituteaninvestigationonthecauseofthecompromise,beforeretendering.

37. PostQualificationoftheTenderer

37.1 TheProcuringEntityshalldetermine,toitssatisfaction,whethertheeligibleTendererthatisselectedashavingsubmittedthelowestevaluatedcostandsubstantiallyresponsiveTender,meetsthequalifyingcriteriaspecifiedinSectionIII,EvaluationandQualificationCriteria.

37.2 ThedeterminationshallbebaseduponanexaminationofthedocumentaryevidenceoftheirqualificationssubmittedbytheirpursuanttoITT15and16.Thedeterminationshallnottakeintoconsiderationthequalificationsofotherfirmssuchastheirsubsidiaries,parententities,affiliates,subcontractors(otherthanspecializedsubcontractorsifpermittedinthetenderingdocument),oranyotherfirm(s)differentfromtheirs.

37.3 Anaffirmativedeterminationshallbeaprerequisiteforawardofthecontracttotheirs.Anegativedeterminationshallresultindisqualificationoftheirs,inwhicheventtheProcuringEntityshallproceedtotheirwhooffersasubstantiallyresponsiveTenderwiththenextlowestevaluatedcosttomakeasimilardeterminationofthatTenderersqualificationstoperformsatisfactorily.

38. LowestEvaluatedTender

38.1 HavingcomparedtheevaluatedpricesofTenders,theProcuringEntityshalldeterminetheLowestEvaluatedTender.TheLowestEvaluatedTenderistheTenderoftheTendererthatmeetstheQualificationCriteriaandwhoseTenderhasbeendeterminedtobe:

a) MostresponsivetotheTenderdocument;and

b) thelowestevaluatedprice.

39. ProcuringEntity'sRighttoAcceptAnyTender,andtoRejectAnyorAllTenders.

39.1 TheProcuringEntityreservestherighttoacceptorrejectanyTender,andtoannultheTenderingprocessandrejectallTendersatanytimepriortonotificationAward,withouttherebyincurringanyliabilitytoTenderers.Incaseofannulment,allTenderersshallbenotifiedwithreasonsandallTenderssubmittedandspecifically,tendersecurities,shallbepromptlyreturnedtotheirTenderers.

F. AwardofContract

40. AwardCriteria

TheProcuringEntityshallawardtheContracttothesuccessfultendererwhosetenderhasbeendeterminedtobethe**LowestEvaluatedTender**inaccordancewithproceduresinSection3:EvaluationandQualificationCriteria.

41. NoticeofIntentiontoenterintoaContract

UponawardofthecontractandPriortotheexpiryoftheTenderValidityPeriodtheProcuringEntityshallissueaNotification ofIntentiontoEnterintoaContract/Notificationofawardtoalltendererswhichshallcontain,ataminimum,thefollowinginformation:

a) thenameandaddressoftheTenderersubmittingthesuccessfultender;

b) theContractpriceofthesuccessfultender;

c) astatementofthereason(s)thetenderoftheunsuccessfultenderertowhomtheletterisaddressedwasunsuccessful,unlessthepriceinformationin(c)abovealreadyrevealsthereason;

d) theexpirydateoftheStandstillPeriod;and

e) instructionsonhowtorequestadebriefingand/orsubmitacomplaintduringthestandstillperiod;

42. StandstillPeriod

42.1 TheContractshallnotbeawardedearlierthantheexpiryofaStandstillPeriodof14daystoallowanydissatisfiedcandidatetolaunchacomplaint.WhereonlyoneTenderissubmitted,theStandstillPeriodshallnotapply.

42.2 Wherestandstillperiodapplies,itshallcommencewhentheProcuringEntityhastransmittedtoeachTenderertheNotificationofIntentiontoEnterintoaContracttothesuccessfulTenderer.

43. Debriefing by the Procuring Entity

43.1 OnreceiptoftheProcuringEntity'sNotificationofIntentiontoEnterintoaContractreferredtoinITT41,anunsuccessfultenderermaymakeawrittenrequesttotheProcuringEntityforadebriefingonspecificissuesorconcernsregardingtheirtender.TheProcuringEntityshallprovidethedebriefingwithinfivedaysofreceiptoftherequest.

43.2 DebriefingsofunsuccessfulTenderersmaybedoneinwritingorverbally.TheTenderershallbearitsowncostsofattendingsuchadebriefingmeeting.

44. Letter of Award

PriortotheexpiryoftheTenderValidityPeriodanduponexpiryoftheStandstillPeriodspecifiedinITT42,uponaddressingacomplaintthathasbeenfiledwithintheStandstillPeriod,theProcuringEntityshalltransmittheLetterofAwardtothesuccessfulTenderer.Theletterofawardshallrequestthesuccessfultenderertofurnishthe PerformanceSecurity within21daysofthedateoftheletter.

45. Signing of Contract

45.1 Upontheexpiryofthefourteendaysofthe NotificationofIntentiontoenterintocontractanduponthepartiesmeetingtheirrespectivestatutoryrequirements,theProcuringEntityshallsendthesuccessfulTenderertheContractAgreement.

45.2 Withinfourteen(14)daysofreceiptoftheContractAgreement,thesuccessfulTenderershallsign,date,andreturnittotheProcuringEntity.

45.3 Thewrittencontractshallbeenteredintowithintheperiodspecifiedinthenotificationofawardandbeforeexpiryofthetendervalidityperiod.

46. Performance Security

46.1 Withintwenty-one(21)daysofthereceiptofLetterofAcceptancefromtheProcuringEntity,thesuccessfulTenderer,ifrequired,shallfurnishthePerformanceSecurityinaccordancewiththeGCC18,usingforthatpurposethePerformanceSecurityFormincludedinSectionX,ContractForms.IfthePerformanceSecurityfurnishedbythesuccessfulTendererisintheformofabond,itshallbeissuedbyabondingorinsurancecompanythathasbeendeterminedbythesuccessfulTenderertobeacceptabletotheProcuringEntity.AforeigninstitutionprovidingabondshallhaveacorrespondentfinancialinstitutionlocatedinKenya,unlesstheProcuringEntityhasagreedinwritingthatacorrespondentfinancialinstitutionisnotrequired.

46.2 FailureofthesuccessfulTenderertosubmittheabove-mentionedPerformanceSecurityorsigntheContractshallconstitutesufficientgroundsfortheannulmentoftheawardandforfeitureoftheTenderSecurity.InthateventtheProcuringEntitymayawardtheContracttotheTendererofferingthenextlowestEvaluatedTender.

46.3 Performancesecurityshallnotberequiredforacontract,ifsospecifiedinthe **TDS**.

47. Publication of Procurement Contract

Withinfourteendaysaftersigningthecontract,theProcuringEntityshallpublishandpublicizetheawardedcontractatitsnoticeboards,entitywebsite;andontheWebsiteoftheAuthorityinmannerandformatprescribedbytheAuthority. Attheminimum,thenoticeshallcontainthefollowinginformation:

a) nameandaddressoftheProcuringEntity;

b) nameandreferencenumberofthecontractbeingawarded,asummaryofitsscopeandtheselectionmethodused;

c) thenameofthesuccessfulTenderer,thefinaltotalcontractprice,thecontractduration.

d) datesofsignature,commencementandcompletionofcontract;

e) namesofallTendersthatsubmittedTenders,andtheirTenderpricesasreadoutatTenderopening;

48. Procurement Related Complaint

TheproceduresformakingaProcurement-relatedComplaintareasspecifiedintheTDS.

SECTIONII–TENDERDATASHEET(TDS)

Thefollowingspecificdatashallcomplement,supplement,oramendtheprovisionsintheInstructionstoTenderers(ITT).Whenever thereisaconflict,theprovisionshereinshallprevailoverthoseinITT.

ITT Reference	A. General
ITT 1.1	The reference number of the Invitation for Tenders is:***[insert reference number of the Request for Tenders]***_____ The Procuring Entity is: ***[insert name of the Procuring Entity]***_____ The name of the Contract is: ***[insert name of the ITT]***_____ The number and identification of lots (contracts)comprising this Invitation for Tenders is: ***[insert number and identification of lots (contracts)]***_____
ITT 1.2(a)	*[delete if not applicable]* **Electronic –Procurement System** The Procuring Entity shall use the following electronic-procurement system to manage this Tendering process: ***[insert name of the e-system and full address or link]*** The electronic-procurement system shall be used to manage the following aspects of the Tendering process: ***[list aspects here and modify the relevant parts of the TDS accordingly e.g., issuing Tendering document, submissions of Tenders, opening of Tenders]***
ITT 2.3	The Information made available on competing firms is as follows: _____ _____
ITT 2.4	The firms that provided consulting services for the contract being tendered for are:
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: ***[insert a number]***
ITT3.7	A list of debarred firms and individuals is available on the PPRA's website: www.ppra.go.ke
ITT 3.11	Tenderers shall be required to be to be registered with ----------
	B. Contents of Tendering Document
ITT 6.1	(a) Address where to send enquiries is _____(*provide postal and email addresses)* to reach the Procuring Entity not later than_____(*specify date and time*). (b) The Procuring Entity publish its response at the website _____
ITT 6.2	A pre-tender conference will **be held/not be held** (*select one*) on _____ (*specify date and time*) at _____ (*specify city, street, building, floor and room)*
ITT 6.3	The questions to reach the Procuring Entity not later than _____ (*specify date and time*).
ITT 6.5	The Minutes of the Pre-Tender meeting shall be published on the at the website _____.
	C. Preparation of Tenders
ITT 13.5	The prices quoted by the Tenderer **[insert "shall "or "shall not"]** _____be subject to adjustment during the performance of the Contract.
ITT 13.6	Prices quoted for each lot (contract) shall correspond at least **to *[insert figure]*** percent of the items specified for each lot (contract). Prices quoted for each item of a lot shall correspond at least to ***[insert figure]***percent of the quantities specified for this item of a lot.

ITT 13.8 (a) (i) and (iii)	Place of final destination: ***[insert named place of destination]***
ITT 13.8 (a) (iii)	Final Destination (Project Site): [*insert final destination/project site, if different from named place of destination*]
ITT 13.8 (b) (i)	Named place of destination, in Kenya is _____
ITT 13.8 (b) (ii)	The price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination which is _____
13.8 (c) (iv)	The place of final destination (Project Site) is _____.
ITT 14.2	Foreign currency requirements **allowed/not allowed.**
ITT 15.4	Period of time the Goods are expected to be functioning (for the purpose of spare parts): ***[insert duration]***
ITT 16.2 (a)	Manufacturer's authorization is: ***[insert "required" or "not required"]***
ITT 16.2 (b)	After sales service is: ***[insert "required" or "not required"]***
ITT 17.1	The Tender validity period shall be ***[insert a number of days that is a multiple of seven counting as of the deadline for Tender submission]*** days.
ITT 17.3	(a) The Number of days beyond the expiry of the initial tender validity period will be _____days. (b) The Tender price shall be adjusted by the following percentages of the tender price: (i) By _____% of t*he local currency portion of the Contract price adjusted to reflect local inflation during the period of extension, and* *(ii) By_____% the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.*
ITT 18.1	***[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.]*** A *Tender Security* ***[insert "shall be" or "shall not be"]*** required. A Tender-Securing Declaration **[*insert "shall be" or "shall not be*"]** required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be ___ ***[If a Tender Security is required, insert amount and currency of the Tender Security. Otherwise insert "Not Applicable".][In case of lots, please insert amount and currency of the Tender Security for each lot]*** *[Note: Tender Security is required for each lot as per amounts indicated against each lot].*
ITT 19.1	In addition to the original of the Tender, the number of copies is**: *[insert number of copies]***
ITT 19.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of**: *[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the Tender].***
	D. Submission and Opening of Tenders
ITT 20.3	A tender package or container that cannot fit in the tender box shall be received as follows: _____ _____

ITT 21.1	For **Tender submission purposes** only, the Procuring Entity's address is: ***[This address may be the same as or different from that specified under provision ITT 7.1 for clarifications]*** Attention: *[[insert full name of person, if applicable]* Postal Address: *[insert address]* Physical Address: City, Street, Building name, Floor Number and Room number. Telephone: *[insert telephone number, including country and city codes]* Electronic mail address: *[insert email address, if applicable]* **The deadline for Tender submission is:** Date:***[insert day, month, and year, e.g. 15 June, 2008]*** Time: ***[insert time, and identify if a.m. or p.m., e.g. 10:30 a.m.]*** *[Note: The date and time should be the same as those provided in the Specific Procurement Notice - Request for Tenders, unless subsequently amended pursuant to ITT 22.2.]* tenderers **[*insert "shall" or "shall not"*]** have the option of submitting their Tenders electronically. *[Note: The following provision should be included and the required corresponding information inserted only if tenderers have the option of submitting their Tenders electronically. Otherwise omit.]* The electronic Tendering submission procedures shall be: ***[insert a description of the electronic Tendering submission procedures]***
ITT 24.1	The Tender opening shall take place at: Attention: *[[insert full name of person, if applicable]* Postal Address: *[insert address]* Physical Address: City, Street, Building name, Floor Number and Room number. Date:***[insert day, month, and year, e.g. 15 June, 2008]*** Time: ***[insert time, and identify if a.m. or p.m. e.g. 10:30 a.m.] [Date and time should be the same as those given for the deadline for submission of Tenders (ITT 22).]*** *[Note: The following provision should be included and the required corresponding information inserted only if tenderers have the option of submitting their Tenders electronically. Otherwise omit.]* The electronic Tender opening procedures shall be: ***[insert a description of the electronic Tender opening procedures.]***
ITT 24.6	The number of representatives of the Procuring Entity to sign is _____.
E. Evaluation and Comparison of Tenders	
ITT 29.3	The manner of rectify quantifiable nonmaterial nonconformities described below: _____
ITT 31.1	The currency that shall be used for Tender evaluation and comparison purposes to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: ***[Insert name of currency]*** The source of exchange rate shall be: ***[Insert name of the source of exchange rates (e.g., the Central Bank in Kenya.]*** The date for the exchange rate shall be*:* ***[insert day, month and year, e.g. 15 June, 2008 not earlier than 30 days prior to the deadline for submission of the Tenders, nor later than the original date for the expiry of Tender validity period].***
ITT 32.3	A margin of preference and/or reservation ***[insert either "shall" or "shall not"]***apply and specify the details. If a margin of preference applies, the application methodology shall be defined in Section III – Evaluation and Qualification Criteria.

ITT 32.5	The invitation to tender is extended to the following group that qualify for Reservations _____ _____ who shall be duly registered with_____ *(These groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be; describe precisely which group qualifies).*
ITT 33.2	Price evaluation will be done for _____ (*specify Items or Lots (contracts*)
ITT 33.2 (d)	Additional evaluation factors are _____
ITT 33.6	The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: ***[refer to Section III, Evaluation and Qualification Criteria; insert complementary details if necessary]*** **(a)** Deviation in Delivery schedule: ***[insert Yes or No. If yes insert the adjustment factor in Section III, Evaluation and Qualification Criteria]*** **(b)** Deviation in payment schedule: ***[insert Yes or No. If yes insert the adjustment factor in Section III, Evaluation and Qualification Criteria]*** **(c)** the cost of major replacement component, mandatory spare parts, and service: ***[insert Yes or No. If yes, insert the Methodology and criteria in Section III, Evaluation and Qualification Criteria]*** **(d)** the availability in Kenya of spare parts and after-sales services for the equipment offered in the Tender ***[insert Yes or No. If yes, insert the Methodology and criteria in Section III, Evaluation and Qualification Criteria]*** **(e)** Life cycle costs: the costs during the life of the goods or equipment ***[insert Yes or No. If yes, insert the Methodology and criteria in Section III, Evaluation and Qualification Criteria]*** **(f)** the performance and productivity of the equipment offered; *[Insert* ***Yes or No. If yes, insert the Methodology and criteria]*** **(g)** ***[insert any other specific criteria in Section III, Evaluation and Qualification Criteria]***
	F. Award of Contract
ITT 46.3	Performance security if so required shall be in the sum of _____
ITT 47	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA Website www.ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to: For the attention: *[insert full name of person receiving complaints]* Title/position: *[insert title/position]* Procuring Entity: *[insert name of Procuring Entity]* Email address*: [insert email address]* In summary, a Procurement-related Complaint may challenge any of the following: **1.** the terms of the Tendering Documents; and **2.** the Procuring Entity's decision to award the contract.

SECTIONIII-EVALUATIONANDQUALIFICATIONCRITERIA

1. GeneralProvisions

1.1 WhereveraTendererisrequiredtostateamonetaryamount,TendersshouldindicatetheKenyaShillingequivalentusingtherateofexchangedeterminedasfollows:

a) Forbusinessturnoverorfinancialdatarequiredforeachyear-Exchangerateprevailingonthelastdayoftherespectivecalendaryear(inwhichtheamountsforthatyearistobeconverted)wasoriginallyestablished.

b) Valueofsinglecontract-Exchangerateprevailingonthedateofthecontractsignature.

c) Exchangeratesshallbetakenfromthepubliclyavailablesourceidentifiedin**theITT14.3.**Anyerrorindeterminingtheexchangeratesin theTendermaybecorrectedbytheProcuringEntity.

1.2 ThissectioncontainsthecriteriathattheProcuringEntityProcuringEntityshallusetoevaluatetenderandqualifytenderers.Nootherfactors,methodsorcriteriashallbeusedotherthanthosespecifiedinthistenderdocument.TheTenderershallprovideallthe informationrequestedintheformsincludedinSectionIV,TenderingForms.TheProcuringEntityshouldusetheStandardTenderEvaluationReportforGoodsandWorksforevaluatingTenders.

2. Evaluation of Tenders (ITT33)

2.1 Successful Tender or Tenders

TheProcuringEntityshallusethecriteriaandmethodologieslistedinthisSectiontoevaluateTenders.Byapplyingthesecriteriaandmethodologies,theProcuringEntityshalldeterminethesuccessfulTenderorTenderswhichhas/haveb eendeterminedto:

a) besubstantiallyresponsivetothetenderdocuments;

b) offerthelowestevaluatedcosttotheProcuringEntityforallitemsofGoodstobeprocuredbasedoneitherasingle ContractorallmultipleContractscombined,asthecasemaybe,inaccordancewiththeITT13.6invitingTenderprices anddiscounts,andprovisionsmadeoftheTenderDocumentforevaluationoftendersandawardofcontract(s);and

c) beofferedbyTendererorTenderersthatsubstantiallymeetthequalificationcriteriaapplicableforContractorc ombinedContractsforwhichtheyareselected.

2.2 Evaluation of Tenders

Preliminary examination for Determination of Responsiveness

TheProcuringEntitywillstartbyexaminingalltenderstoensuretheymeetinallrespectstheeligibilitycriteriaandotherm andatoryrequirementsintheITT,andthatthetenderiscompleteinallaspectsinmeetingtherequirementsprovidedfo rinthepreliminaryevaluationcriteriaoutlinedbelow.TheStandardTenderEvaluationReportDocumentforGoods andWorksforevaluatingTendersprovidesveryclearguideonhowtodealwithreviewoftheserequirements.Tenderst hatdonotpassthePreliminaryExaminationwillbeconsiderednon-responsiveandwillnotbeconsideredfurther.

EVALUATION CRITERIA

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
23	***SECTION A).*** **MANDATORY REQUIREMENTS**
	M1. MUST Attach Certificate of Incorporation or Business Name Registration
	M2. Attach Valid Tax Compliance Certificate.
	M3. MUST Attach dully filled business questionnaire
	M4. MUST attach copy of company CR12 printed within the past recent one (1) year.
	M5. MUST Attach dully filled Anti-corruption declaration form
	M6. Attach Valid Business Permit

	M7. Dully filled form of tender
	M8. MUST submit tenders in the correct Format (All forms filled, signed and rubber stamped. i.e. Tender form, Business Questionnaire, price schedule, Corruption declaration form.
	Note: Failure to meet the above requirements shall render the tenderer none responsive and shall not proceed to technical stage of evaluation.
2.1.1	**OPEN TENDER.**
2.18.1	**TENDER CLOSING DATE: MONDAY 23RD NOVEMBER 2026 AS INDICATED IN IFMIS.**

PRICE EVALUATION

Consistent with and in addition to the criteria listed in ITT33.3 and ITT29.3; and ITT 34 and its sub paragraphs the following criteria shall apply:

22.1 Evaluation of Technical aspects of the Tender

TheProcuringEntityshallevaluatetheTechnicalaspectsoftheTendertodeterminecompliancewiththeProcuringEntity'srequirementsunderSectionV'ScheduleofRequirement'andwhethertheTendersaresubstantiallyresponsivetotheTechnicalSpecificationsandotherRequirements.

TECHNICAL EVALUATION CRITERIA

Technical Evaluation shall comprise scoring of bidders under various attributes in the table below – Table of Scoring Matrix. To earn maximum scores, a bidder must (1) provide supporting documents as per criteria (2) provide very precise/specific and relevant information as per criteria (3) provide as many/much information as possible to earn more points. **A bidder must score a minimum of 34 points to be considered for Financial Evaluation**

Table of Scoring Matrix

s/no	Sub-Factor	Requirement	Maximum score	Awarded score
1.	Financial Situation			
	Audited financial reports for the past two years (2024 & 2025)	Audited financial report for 2024	10	
		Audited financial report for 2025	10	
	Financial Capacity		20	
2.	EXPERIENCE			
	Contract implemented & completed in the past three (3) years on goods/services (2023 to 2025)	Information on past supplies and deliveries of goods/services. Bidders MUST provide (1) Offers Letters or Contract Letters/LPOs clearly stipulating the contract value/amounts in question, Qualification Information Form (choose either of the qualification below):		
		Contracts value above KES 2M	20	
		Contracts value up to KES 0.5-2M	10	
		Contracts below to KES 0.5 M	5	
	PAST & SPECIFIC EXPERIENCE		20	
3.	Dully filled and stamped Price list/specifications		20	
4.	Manufacturer's Authorization	Dully filled and stamped Manufacturer's Authorization	N/A	
	TOTAL SCORES		40	

NOTE: Only tenders that score 35% on technical evaluation will qualify to have their proposals for financials evaluated. Those scoring below 40% will be disqualified at this stage. Award will be given to the lowest evaluated responsive bidder.

TheProcuringEntityshalldeterminewhethertheTendersaresubstantiallyresponsivetotheCommercialandContractualTermsandConditions(e.g.performancesecurities,Paymentanddeliveryschedules).

2.2.2 EvaluationCriteria(OtherFactors)(ITT33.6)

TheProcuringEntity'sevaluationofaTendermaytakeintoaccount,inadditiontotheTenderPricequotedinaccordancewithITT13.8,oneormoreofthefollowingfactorsasspecifiedinITT33.2(d)andinTDSITT33.6**,**usingthefollowingcriteriaandmethodologies.

a) **Deliveryschedule**.

TheGoodsspecifiedintheListofGoodsarerequiredtobedeliveredwithintheacceptabletimerange(aftertheearliestandbeforethefinaldate,bothdatesinclusive)specifiedinSectionV,ScheduleofRequirements.Nocreditwillbegiventodeliveriesbeforetheearliestdate,andTendersofferingdeliveryafterthefinaldateshallbetreatedasnon-responsive.Withinthisacceptableperiod,anadjustmentof[insertheadjustmentfactor],willbeadded,forevaluationpurposesonly,totheTenderpriceofTendersofferingdelivieslaterthanthe"EarliestDeliveryDate"specifiedinSectionV,ScheduleofRequirements.

b) **Deviationinpaymentschedule**.

i) tenderersshallstatetheirTenderpriceforthepaymentscheduleoutlinedintheSCC.Tendersshallbeevaluatedonthebasisofthisbaseprice.tenderersare,however,permittedtostateanalternativepaymentscheduleandindicatethereductioninTenderpricetheywishtoofferforsuchalternativepaymentschedule.TheProcuringEntitymayconsiderthealternativepaymentscheduleandthereducedTenderpriceofferedbythetendererselectedonthebasisofthebasepriceforthepaymentscheduleoutlinedintheSCC.

c) **Costofmajorreplacementcomponents**,

Tenderer shall provide along with its Tender, the list of recommended spare parts for Goods offered indicatingforeachitemofsparepartthe recommendedquantityandunit,andtotalCIPfinaldestination prices required during the initial period of operation specified in the TDS 15.4.The prices offered shall notexceedtheprevailingpriceschargedtootherpartiesbytheTenderer.Thecostofsuchsparepartswill not be taken into account for tender evaluation. The Procuring Entity may award the contract for spare partstotheTendererthatissuccessfulforthesupplyofGoods,byselectingatitsoption,fromtheTender's listofrecommendedspareparts,suchitemsandquantitiesagainsteachastheProcuringEntitymaydeem appropriate at the unit prices indicated by the Tenderer but not exceeding ----% (present) of the cost of Goods[normallynotmorethan10%or15%.]

AvailabilityinKenyaofsparepartsandaftersalesservicesforequipmentofferedin theTender.

AnadjustmentequaltothecosttotheProcuringEntityofestablishingtheminimumservicefacilitiesandpartsinventoriesifquotedseparately,shallbeaddedtotheTenderprice,forevaluationpurposesonly.

d) Specificadditionalcriteria

[Otherspecificadditionalcriteriatobeconsideredintheevaluation,andtheevaluationmethodshallbedetailedinTDS34.6][If specific**sustainableprocurementtechnicalrequirements**havebeenspecifiedinSectionVII-Specification,**either**statethat(i)thoserequirementswillbeevaluatedonapass/fail(compliancebasis)**or**otherwise(ii)inadditiontoevaluatingthoserequirementsonapass/fail(compliancebasis),ifapplicable,specifythemonetaryadjustmentstobeappliedtoTenderPricesforcomparisonpurposesonaccountofTendersthatexceedthespecifiedminimumsustainableprocurementtechnicalrequirements.]

2.2.4. MultipleContracts(ITT33.4)

MultiplecontractswillbepermittedinaccordancewithITT33.4.TenderersareevaluatedonbasisofLotsandthelowestevaluatedtendereridentifiedforeachLot.TheProcuringEntitywillselectoneOptionofthetwoOptionslistedbelowforawardofContracts.

OPTION1

i) IfatendererwinsonlyoneLot,thetendererwillbeawardedacontractforthatLot,providedthetenderermeetsthe EligibilityandQualificationCriteriaforthatLot.

ii) IfatendererwinsmorethanoneLot,thetenderwillbeawardedcontractsforallwonLots,providedthetendererm eetstheaggregateEligibilityandQualificationCriteriaforalltheLots.Thetendererwillbeawardedthecombina tionofLotsforwhichthetendererqualifiesandtheotherswillbeconsideredforawardtosecondlowestthetender ers.

OPTION2

TheProcuringEntitywillconsiderallpossiblecombinationsofwonLots[contract(s)]anddeterminethecombination swiththelowestevaluatedprice.TenderswillthenbeawardedtotheTendererorTenderersinthecombinationsprovid edthetenderermeetstheaggregateEligibilityandQualificationCriteriaforallthewonLots.

2.25. AlternativeTenders

(ITT13.1)*AnalternativeifpermittedunderITT13.1,willbeevaluatedasf*

ollows:[insertoneofthefollowing]

"ATenderermaysubmitanalternativeTenderonlywithaTenderforthebasecase.TheProcuringEntityshallonlycons iderthealternativeTendersofferedbytheTendererwhoseTenderforthebasecasewasdeterminedtobetheLowestEva luatedTender."

3. MARGINOFPREFERENCE

3.1 IftheTDSsospecifies,theProcuringEntitywillgrantamarginofpreferenceof15%(fifteenpercent)toTenderersoffer inggoodsmanufactured,mined,extracted,grown,assembledorsemi-processedinKenya.Goodsassembledorsemi-processedinKenyashallhavealocalcontentofnotlessthan40%.

3.2 Themarginofpreferencewillbeappliedinaccordancewith,andsubjectto,thefollowingprovisions:

a) Tenderersapplyingforsuchpreferenceongoodsofferedshallprovide,aspartofthedataforqualification,suchi nformation,includingdetailsofthegoodsproducedinKenya,soastodeterminewhether,accordingtotheclassi ficationestablishedbytheProcuringEntity,aparticularcategoryofgoodsorgroupofgoodsqualifiesforamargi nofpreference.

b) AfterTendershavebeenreceivedandreviewedbytheProcuringEntity,goodsofferedintheresponsiveTenders shallbeassessedtoascertaintheyaremanufactured,mined,extracted,grown,assembledorsemi-processedinKenya.ResponsivetendersshallbeclassifiedintothefollowinggroupsS:

i) **GroupA:**TendersofferinggoodsmanufacturedinKenya,forwhich(a)labour,rawmaterials,andcomp onentsfromwithinKenyaaccountformorethanforty(40)percentoftheEx-Worksprice;and (b)theproductionfacilityinwhichtheywillbemanufacturedorassembledhasbeenengagedinmanufacturingoras semblingsuchgoodsatleastsincethedateofTendersubmissiondate;

ii) **GroupB:**AllotherTendersofferingGoodsmanufacturedinKenya;

iii) **GroupC:**TendersofferingGoodsmanufacturedoutsideKenyathathavebeenalreadyimportedorthat willbeimported.

c) TofacilitatethisclassificationbytheProcuringEntity,theTendershallcompletewhicheverversionofthePric eScheduleFurnishedintheTenderDocumentsisappropriate.IncorrectclassificationmayrendertheTendernon-responsiveasnoreclassificationwillbepermittedafterTenderopening.Tenderersshallprovidecorrectinformationespeciallywithrespecttoduties,taxesetc.paidonpreviouslyimportedGoodsandpercentageoflocallabour,materialsandcomponentsforGoodsmanufacturedinKenyaasanyfalseinformationwhichcannotbesupported bydocumentationmayrendertheTendernon-responsivebesidesothersanctionsforprovidingfalsifiedinformation.

d) TheProcuringEntitywillfirstreviewtheTenderstoconfirmtheappropriatenessoftheTendergroupclassificati ontowhichTenderersassignedtheirTendersinpreparingtheirTenderFormsandPriceSchedules.

e) AllevaluatedTendersineachgroupwillthenbecomparedtodeterminethelowestevaluatedTenderofeachgrou p.SuchlowestevaluatedTendersshallbecomparedwitheachotherandifasaresultofthiscomparisonaTenderfr omGroupAorGroupBisthelowest,itshallbeselectedfortheaward.

f) IfasaresultoftheprecedingcomparisonthelowestevaluatedTenderisaTenderfromGroupC,allTendersfrom GroupCshallbefurthercomparedwiththelowestevaluatedTenderfromGroupAafteraddingtotheevaluatedp riceofgoodsofferedineachTenderfromGroupC,forthepurposeofthisfurthercomparisononly,anamountequ

alto15%(fifteenpercent)oftherespectiveCIPTenderpriceforgoodstobeimportedandalreadyimportedgoods.Bothpricesshallincludeunconditionaldiscountsandbecorrectedforarithmeticalerrors.IftheTenderfromGroupAisthelowest,itshallbeselectedforaward.Ifnot,thelowestevaluatedTenderfromGroupCshallbeselectedasperparagraph(e)above."

Post-Qualification Criteria (ITT37.1)

Incase the tender was not subject to pre-qualification, the tender that has been determined to be the lowestevaluatedtenderershallbeconsideredforcontractaward,subjecttomeetingeachofthefollowingconditions(postqualificationCriteriaappliedonaGO/NOGObasis).TheProcuringEntityshallcarryoutthepost-qualificationoftheTendererinaccordancewithITT37,usingonlytherequirementsspecifiedherein.RequirementsnotincludedinthetextbelowshallnotbeusedintheevaluationoftheTenderer'squalifications.Theminimumqualificationrequirementsformultiplecontractswillbethesumoftheminimumrequirementsforrespectiveindividualcontracts,unlessotherwisespecified.

3.3 IftheTendererisamanufacturer

a) FinancialCapability

i) TheTenderershalldemonstratethatithasaccessto,orhasavailable,liquidassets,unencumberedrealassets,linesofcredit,andotherfinancialmeans(independentofanycontractualadvancepayment)sufficienttomeetthesupplycashflowofKenyaShillings _____[or equivalent].

ii) MinimumaverageannualsupplyturnoverofKenyaShillings _____*[insertamount,specifyafigureabout2.5timesthetotalTenderprice)]or*equivalentcalculatedastotalcertifiedpaymentsreceivedforcontractsofgoodsmanufacturedandsuppliedwithinthelast_____ _____*[insertnumberofyears)*.Incaseofmultiplecontracts,limitationwillbeplacedonthenumberofitem(s)thatwillbeawardedtotheTenderer.

b) ExperienceandTechnicalCapacity

TheTenderershallfurnishdocumentaryevidencetodemonstratethatitmeetsthefollowingexperiencerequirement(s)usingtheformprovidedinSectionIV.IncasetheTendererisaJV,experienceanddemonstratedtechnicalcapacityofonlytheJVshallbetakenintoaccountandnotofindividualmembersnortheirindividualexperience/capacitywillbeaggregatedunlessallmembersoftheJVhavebeenmanufacturingandsupplyingGoodsofferedintheTendertothesametechnology,processing,design,materials,specifications,modelnumber,etc.inallrespectssuchthatGoodsmanufacturedhavethesamefunctionalcharacteristics,performanceparameters,outputsandotherguaranteesandfullyinterchangeablewhichshallbedocumentedalongwithotherrequireddocumentsdemonstratingcapacitytothesatisfactionoftheProcuringEntityincaseindividualmembersclaimexperience.Otherwise,documentsevidencingexperienceandtechnicalcapacityshallbeinthenameoftheJVthatsubmittedtheTender.WherevertheWords"SimilarGoods"havebeenuseditincludesupgrades,latestandimprovedversionsormodelsofsimilarspecificationsandtechnology.RefertoFormExp-1toprovidetherequiredinformation.

(Optional)DocumentaryEvidenceofUsageofGoods(Whenappropriate)

TheTenderershallfurnishdocumentaryevidencesatisfactorytotheProcuringEntitytodemonstratethatsimilarGoodsasofferedintheTenderhavebeeninsuccessfuluseoroperation.
IftheTendererisaJV,theevidenceofdemonstratedusageofGoodssuppliedinthepastshallbeinthenameoftheJV.

3.4 IfTendererisaSupplier:

IfaTendererisaSupplierofferingtheGoodsonbehalfoforfromaManufacturerunderManufacturer'sAuthorizationForm(SectionIV,TenderingForms),theManufacturershalldemonstratetheabovequalifications4.2(b)(i),(ii),and(iii)andtheTenderershalldemonstrateitmeetsthefollowingcriteria.

i) TheTenderershalldemonstratethatithasaccessto,orhasavailable,liquidassets,unencumberedrealassets,linesofcredit,andotherfinancialmeans .

ii) Hassatisfactorilyandsubstantiallycompletedcontract(s)ofasimilarnatureeitherwithinKenya,theEastAfricanCommunityorabroad,asaprimesupplierorajointventuremember.

iii) Tenderer(Supplieror/andmanufacturer,andeachmemberofJVincasetheTendererisaJV,shalldemonstratethatNon-

performanceofacontractdidnotoccurasaresultofthedefaultoftheTenderer,manufacturerorthememberofJV asthecasemaybe,inthelast 5years.ThereqTuiredinformationshallbefurnishedasperformCON-2].

35 PendingLitigation

Financialpositionandprospectivelong-termprofitabilityoftheSingleTenderer,andinthecasetheTendererisaJV,ofeachmemberoftheJV,shallremainsound accordingtocriteriaestablishedwithrespecttoFinancialCapabilityunderparagraphI(i)aboveassumingthatallpend inglitigationwillberesolvedagainsttheTenderer.Tendershallprovideinformationonpendinglitigationsasper For mCON-2.

4.6. **LitigationHistory**

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last 5 years. All parties to the contract shall furnish the information on the related Form (CON-2) about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

SECTIONIV-TENDERINGFORMS

FormofTenderTendererInformationFormTendererJVMembersInformationForm

PriceSchedule:GoodsManufacturedOutsideKenya,tobeImportedPriceSchedule:GoodsManufacturedOutsideKenya,alr

eadyimportedPriceSchedule:GoodsManufacturedinKenyaPriceandCompletionSchedule –

RelatedServicesFormofTenderSecurity – DemandGuaranteeFormofTenderSecurity(TenderBond)

FormofTender-SecuringDeclarationManufacturer'sAuthorizationForm

FORMOFTENDER

INSTRUCTIONSTOTENDERERS

i) TheTendermustpreparethisFormofTenderonstationerywithitsletterheadclearlyshowingtheTenderer'scomplet enameandbusinessaddress.

ii) AllitalicizedtextistohelpTendererinpreparingthisform.

iii) TendermustcompleteandsignCERTIFICATEOFINDEPENDENTTENDERDETERMINATIONandtheSELF DECLARATIONOFTHETENDERERattachedtothisFormofTender.

DateofthisTendersubmission:.....*[insertdate(asday,monthandyear)ofTendersubmission]***TenderN**

ameandIdentification:.....*[insertidentification]***AlternativeNo.**:.....*[i*

nsertidentificationNoifthisisaTenderforanalternative]

To: Baringo county Governmentp.o Box 53-30400 kabarnet

a) **Noreservations:**WehaveexaminedandhavenoreservationstotheTenderingdocument,includingAddendaissuedi naccordancewithInstructionstotenderers(ITT7);

b) **Eligibility**: WemeettheeligibilityrequirementsandhavenoconflictofinterestinaccordancewithITT3;

c) **Tender/Proposal-SecuringDeclaration**:
WehavenotbeensuspendednordeclaredineligiblebytheProcuringEntitybasedonexecutionofaTender-SecuringDeclaration.
or
Proposal-SecuringDeclarationinKenyainaccordancewithITT3.6;

d) **Conformity:**
Weoffertosupplyinconformitywiththe Tenderingdocumentandinaccordancewiththe DeliverySchedulesspecifiedintheScheduleofRequirementsthefollowingGoods:[*insertabriefdescriptionoftheGoodsandRelatedServices*];

e) **TenderPrice**: ThetotalpriceofourTender,excludinganydiscountsofferedinitem (f)belowis:

Option1,incaseofonelot:Totalpriceis:*[insertthetotalpriceoftheTenderinwordsandfigures,indicatingthevariousamountsandtherespectivecurrencies];*

or

Option2,incaseofmultiplelots:(a)Totalpriceofeachlot[*insertthetotalpriceofeachlotinwordsandfigures,indicatingthevariousamountsandtherespectivecurrencies*];and(b)Totalpriceofalllots(sumofalllots)[*insertthetotalpriceofalllotsinwordsandfigures,indicatingthevariousamountsandtherespectivecurrencies*];

f) **Discounts**:Thediscountsofferedandthemethodologyfortheirapplicationare:

i) Thediscountsofferedare:[*Specifyindetaileachdiscountoffered.*]

ii) Theexactmethodofcalculationstodeterminethenetpriceafterapplicationofdiscountsareshownbelow:[*Specifyindetailthemethodthatshallbeusedtoapplythediscounts*];

g) **TenderValidityPeriod**:OurTendershallbevalidfortheperiodspecifiedinTDS17.1(asamended,ifapplicable)fromthedatefixedfortheTendersubmissiondeadlinespecifiedinTDS21.1(asamended,ifapplicable),anditshallremainbindinguponusandmaybeacceptedatanytimebeforetheexpirationofthatperiod;

(h)
PerformanceSecurity:IfourTenderisaccepted,wecommittoobtainaperformancesecurityinaccordancewiththeTenderingdocument;

OneTenderpertenderer:WearenotsubmittinganyotherTender(s)asanindividualtenderer,andwearenotparticipatinginanyotherTender(s)asaJointVenturemember,orasasubcontractor,andmeettherequirementsofITT3.9,otherthanalternativeTenderssubmittedinaccordancewithITT12;

i) **SuspensionandDebarment**:We,alongwithanyofoursubcontractors,suppliers,consultants,manufacturers,orserviceprovidersforanypartofthecontract,arenotsubjectto,andnotcontrolledbyanyentityorindividualthatissubjectto,atemporarysuspensionoradebarmentimposedbytheProcuringEntity.Further,wearenotineligibleundertheKenyalawsorofficialregulationsorpursuanttoadecisionoftheUnitedNationsSecurityCouncil;

j) **State-ownedenterpriseorinstitution**:*[selecttheappropriateoptionanddeletetheother][Wearenotastate-ownedenterpriseorinstitution]/[Weareastate-ownedenterpriseorinstitutionbutmeettherequirementsofITT3.7];*

k) **Commissions,gratuities,fees:**Wehavepaid,orwillpaythefollowingcommissions,gratuities,orfeeswithrespecttotheTenderingprocessorexecutionoftheContract:*[insertcompletenameofeachRecipient,itsfulladdress,thereasonforwhicheachcommissionorgratuitywaspaidandtheamountandcurrencyofeachsuchcommissionorgratuity]*

Name of Recipient	Address	Reason	Amount

(Ifnonehasbeenpaidoristobepaid,indicate“none.”)

l) **BindingContract**:WeunderstandthatthisTender,togetherwithyourwrittenacceptancethereofincludedinyourLetterofAcceptance,shallconstituteabindingcontractbetweenus,untilaformalcontractispreparedandexecuted;

m) **ProcuringEntityNotBoundtoAccept**:Weunderstandthatyouarenotboundtoacceptthelowestevaluatedcost Tender,theBestEvaluatedTenderoranyotherTenderthatyoumayreceive;and

n) **FraudandCorruption**:Weherebycertifythatwehavetakenstepstoensurethatnopersonactingforusoronourbehalf

engagesinanytypeofFraudandCorruption.

(p) **CodeofEthicalConduct**:WeundertaketoadherebytheCodeofEthicsforPersonsParticipatinginPublicProcurementandAssetDisposal,copyavailablefrom_____(*specifywebsite*)duringtheprocurementprocessandtheexecutionofanyresultingcontract.

(q) **Collusivepractices**:Weherebycertifyandconfirmthatthetenderisgenuine,non-collusiveandmadewiththeintentionofacceptingthecontractifawarded.Tothiseffectwehavesignedthe"CertificateofIndependenttenderDetermination"attachedbelow.

(r) We,theTenderer,havecompletedfullyandsignedthefollowingFormsaspartofourTender:

a) Tenderer'sEligibility;ConfidentialBusinessQuestionnaire–toestablishwearenotinanyconflicttointerest.

b) CertificateofIndependentTenderDetermination–todeclarethatwecompletedthetenderwithoutcolludingwithothertenderers.

c) Self-DeclarationoftheTenderer–todeclarethatwewill,ifawardedacontract,notengageinanyformoffraudandcorruption.

d) DeclarationandcommitmenttotheCodeofEthicsforPersonsParticipatinginPublicProcurementandAssetDisposal.

Further,weconfirmthatwehavereadandunderstoodthefullcontentandscopeoffraudandcorruptionasinformedin **"Appendix1-FraudandCorruption**"attachedtotheFormofTender.

Nameofthetenderer:*[*insertcompletenameofthetenderer*]

NameofthepersondulyauthorizedtosigntheTenderonbehalfofthetenderer:**[*insertcompletenameofpersondulyauthorizedtosigntheTender*]

TitleofthepersonsigningtheTender:[*insertcompletetitleofthepersonsigningtheTender*]**Signatureoftheperso**

nnamedabove:[*insertsignatureofpersonwhosenameandcapacityareshownabove*]**Datesigned**[*insertdateofsig*

ning]**dayof**[*insertmonth*],[*insertyear*]

*:InthecaseoftheTendersubmittedbyaJointVenturespecifythenameoftheJointVentureastenderer.

**:PersonsigningtheTendershallhavethepowerofattorneygivenbythetenderer.Thepowerofattorneyshallbeattachedwith theTenderSchedules.

CERTIFICATEOFINDEPENDENTTENDERDETERMINATION

I,theundersigned,insubmittingtheaccompanyingLetterofTendertothe_____
_____*[NameofProcuringEntity]*for:
_____*[Nameandnumberoftender]*inres
ponsetotherequestfortendersmadeby:_____
_____*[NameofTenderer]*doherebymake
thefollowingstatementsthatIcertifytobetrueandcompleteineveryrespect:

Icertify,onbehalfof_____*[NameofTenderer]*that:

1. IhavereadandIunderstandthecontentsofthisCertificate;

2. IunderstandthattheTenderwillbedisqualifiedifthisCertificateisfoundnottobetrueandcompleteineveryrespect;

3. Iamtheauthorizedrepresentativeofthetendererwithauthoritytosignthiscertificate,andtosubmittheTenderonbeha lfoftheTenderer;

4. ForthepurposesofthisCertificateandtheTender,Iunderstandthattheword“competitor”shallincludeanyindividualo rorganization,otherthantheTenderer,whetherornotaffiliatedwiththeTenderer,who:

   a) hasbeenrequestedtosubmitaTenderinresponsetothisrequestfortenders;

   b) couldpotentiallysubmitatenderinresponsetothisrequestfortenders,basedontheirqualifications,abilitiesore xperience;

5. TheTendererdisclosesthat[checkoneofthefollowing,asapplicable]:

   a) TheTendererhasarrivedattheTenderindependentlyfrom,andwithoutconsultation,communication,agreem entorarrangementwith,anycompetitor;

   b) theTendererhasenteredintoconsultations,communications,agreementsorarrangementswithoneormoreco mpetitorsregardingthisrequestfortenders,andtheTendererdiscloses,intheattacheddocument(s),completed etailsthereof,includingthenamesofthecompetitorsandthenatureof,andreasonsfor,suchconsultations,com munications,agreementsorarrangements;

6. Inparticular,withoutlimitingthegeneralityofparagraphs(5)(a)or(5)(b)above,therehasbeennoconsultation,comm unication,agreementorarrangementwithanycompetitorregarding:

   a) prices;

   b) methods,factorsorformulasusedtocalculateprices;

   c) theintentionordecisiontosubmit,ornottosubmit,atender;or

   d) thesubmissionofatenderwhichdoesnotmeetthespecificationsoftherequestforTenders;exceptasspecifically disclosedpursuanttoparagraph(5)(b)above;

7. Inaddition,therehasbeennoconsultation,communication,agreementorarrangementwithanycompetitorregardingt hequality,quantity,specificationsordeliveryparticularsoftheworksorservicestowhichthisrequestfortendersrelate s,exceptasspecificallyauthorizedbytheprocuringauthorityorasspecificallydisclosedpursuanttoparagraph(5)(b)a bove;

8. thetermsoftheTenderhavenotbeen,andwillnotbe,knowinglydisclosedbytheTenderer,directlyorindirectly,toanyc ompetitor,priortothedateandtimeoftheofficialtenderopening,oroftheawardingoftheContract,whichevercomesfir st,unlessotherwiserequiredbylaworasspecificallydisclosedpursuanttoparagraph(5)(b)above.

Name

_____

Title

_____

Date_____

SELF-DECLARATIONFORMS

FORM SD1

SELFDECLARATIONTHATTHEPERSON/TENDERERISNOTDEBARREDINTHEMATTER OFTHEPUBLICPROCUREMENT ANDASSETDISPOSAL ACT2015.

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

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

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been cak
3. red from participating in procurementproceedingunderPartIVoftheAct.

4. THATwhatisdeponedtohereinaboveistruetothebestofmyknowledge,informationandbelief.

…….	……..….	..... ……
(Title)	(Signature)	(Date)

Bidder Official Stamp

FORM SD2

SELFDECLARATIONTHATTHEPERSON/TENDERERWILLNOTENGAGEINANYCORRUPTORFRAUDULENTPRACTICE

I,.....ofP.O.Box.....beingaresidentof.....intheRepublicof.....doherebymakeastatementasfollows:-

1. THATIamtheChiefExecutive/ManagingDirector/PrincipalOfficer/Directorof..... …..……..……*(insertnameoftheCompany)*whoisaBidderinrespectof**TenderNo**.....for.....*(inserttendertitle/description)* for.....*(insertnameoftheProcuringentity)*anddulyauthorizedandcompetenttomakethisstatement.

2. THATtheaforesaidBidder,itsservantsand/oragents/subcontractorswillnotengageinanycorruptorfraudulentpracticeandhasnotbeenrequestedtopayanyinducementtoanymemberoftheBoard,Management,Staffand/oremployeesand/oragentsof……..*(insertnameoftheProcuringentity)*whichistheprocuringentity.

3. THATtheaforesaidBidder,itsservantsand/oragents/subcontractorshavenotofferedanyinducementtoanymemberoftheBoard,Management,Staffand/oremployeesand/oragentsof……..*(nameoftheprocuringentity)*.

4. THATtheaforesaidBidderwillnotengage/hasnotengagedinanycorrosivepracticewithotherbiddersparticipatinginthesubjecttender.

5. THATwhatisdeponedtohereinaboveistruetothebestofmyknowledgeinformationandbelief.

…… ……...… .....……(Title) (Signature) (Date)

Bidder'sOfficialStamp

DECLARATIONANDCOMMITMENTTOTHECODEOFETHICS

I.....(person) onbehalfof***(Nameofthe Business/Company/Firm***).....declarethatIhavereadandfullyunderstoodthecontentsofthePublicProcurement&AssetDisposalAct,2015,RegulationsandtheCodeofEthicsforpersonsparticipatinginPublicProcurementandAssetDisposalandmyresponsibilitiesundertheCode.

IdoherebycommittoabidebytheprovisionsoftheCodeofEthicsforpersonsparticipatinginPublicProcurementandAssetDisposal.

NameofAuthorizedsignatory.....

Sign…….....

Position.....

Officeaddress……Telephone…….....…….

E-mail…….....……

NameoftheFirm/Company…….....……

Date…….....……

(CompanySeal/RubberStampwhereapplicable)

WitnessName…….....……

…….

Sign…….....……

Date…….....……

APPENDIX1-FRAUDANDCORRUPTION

(Appendix1shallnotbemodified)

1. Purpose

1.1 TheGovernmentofKenya'sAnti-CorruptionandEconomicCrimelawsandtheirsanction'spoliciesandprocedures,PublicProcurementandAssetDisposalAct*(no.33of2015)*anditsRegulation,andanyotherKenya'sActsorRegulationsrelatedtoFraudandCorruption,andsimilaroffences,shallapplywithrespecttoPublicProcurementProcessesandContractsthataregovernedbythelawsofKenya.

2. Requirements

2.1 TheGovernmentofKenyarequiresthatallpartiesincludingProcuringEntities,Tenderers,(applicants/proposers),Consultants,ContractorsandSuppliers;anySub-contractors,Sub-consultants,ServiceprovidersorSuppliers;anyAgents(whetherdeclaredornot);andanyoftheirPersonnel,involvedandengagedinprocurementunderKenya'sLawsandRegulation,observethehigheststandardofethicsduringtheprocurementprocess,selectionandcontractexecutionofallcontracts,andrefrainfromFraudandCorruptionandfullycomplywithKenya'slawsandRegulationsasperparagraphs1.1above.

2.2 Kenya'spublicprocurementandassetdisposalact*(no.33of2015)*underSection66describesrulestobefollowedandactionstobetakenindealingwithCorrupt,Coercive,Obstructive,CollusiveorFraudulentpractices,andConflictsofInterestinprocurementincludingconsequencesforoffencescommitted.Afewoftheprovisionsnotedbelowhighlight Kenya'spolicyofnotoleranceforsuchpracticesandbehavior:

1) apersontowhomthisActappliesshallnotbeinvolvedinanycorrupt,coercive,obstructive,collusiveorfraudulentpractice;orconflictsofinterestinanyprocurementorassetdisposalproceeding;
2) Apersonreferredtoundersubsection(1)whocontravenestheprovisionsofthatsub-sectioncommitsanoffence;
3) Withoutlimitingthegeneralityofthesubsection(1)and(2),thepersonshallbe—
   a) disqualifiedfromenteringintoacontractforaprocurementorassetdisposalproceeding;or
   b) ifacontracthasalreadybeenenteredintowiththeperson,thecontractshallbevoidable;
4) Thevoidingofacontractbytheprocuringentityundersubsection(7)doesnotlimitanylegalremedytheprocuringentitymayhave;
5) Anemployeeoragentoftheprocuringentityoramemberoftheboardorcommitteeoftheprocuringentitywhohasaconflictofinterestwithrespecttoaprocurement:-
   a) shallnottakepartintheprocurementproceedings;
   b) shallnot,afteraprocurementcontracthasbeenenteredinto,takepartinanydecisionrelatingtotheprocurementorcontract;and
   c) shallnotbeasubcontractorforthebiddertowhomwasawardedcontract,oramemberofthegroupofbidderstowhomthecontractwasawarded,butthesubcontractorappointedshallmeetalltherequirementsofthisAct.

6) Anemployee,agentormemberdescribedinsubsection(1)whorefrainsfromdoinganythingprohibitedunderthatsubsection,butforthatsubsection,wouldhavebeenwithinhisorherdutiesshalldisclosetheconflictofinteresttotheprocuringentity;

7) Ifapersoncontravenessubsection(1)withrespecttoaconflictofinterestdescribedinsubsection(5)(a)andthecontractisawardedtothepersonorhisrelativeortoanotherpersoninwhomoneofthemhadadirectorindirectpecuniaryinterest,thecontractshallbeterminatedandallcostsincurredbythepublicentityshallbemadegoodbytheawardingofficer.Etc.

2.3 IncompliancewithKenya'slaws,regulationsandpoliciesmentionedabove,theProcuringEntity:

a) Definesbroadly,forthepurposesoftheaboveprovisions,thetermssetforthbelowasfollows:
   i) “corruptpractice”istheoffering,giving,receiving,orsoliciting,directlyorindirectly,ofanythingofvaluetoinfluenceimproperlytheactionsofanotherparty;

ii) "fraudulentpractice"isanyactoromission,includingmisrepresentation,thatknowinglyorrecklesslymisleads,orattemptstomislead,apartytoobtainfinancialorotherbenefitortoavoidanobligation;

iii) "collusivepractice"isanarrangementbetweentwoormorepartiesdesignedtoachieveanimproperpurpose,includingtoinfluenceimproperlytheactionsofanotherparty;

iv) "coercivepractice"isimpairingorharming,orthreateningtoimpairorharm,directlyorindirectly,anypartyorthepropertyofthepartytoinfluenceimproperlytheactionsofaparty;

v) "obstructivepractice"is:

- deliberatelydestroying,falsifying,altering,orconcealingofevidencematerialtotheinvestigation ormakingfalsestatementstoinvestigatorsinordertomateriallyimpedeinvestigationbyPublicProcurementRegulatoryAuthority(PPRA)oranyotherappropriateauthorityappointedbyGovernmentofKenyaintoallegationsofacorrupt,fraudulent,coercive,orcollusivepractice;and/orthreatening,harassing,orintimidatinganypartytopreventitfromdisclosingitsknowledgeofmattersrelevantt otheinvestigationorfrompursuingtheinvestigation;or

- actsintendedtomateriallyimpedetheexerciseofthePPRA'sortheappointedauthority'sinspection andauditrightsprovidedforunderparagraph2.3e.below.

b) Definesmorespecifically,inaccordancewiththeaboveprocurementActprovisionssetforthforfraudulentand collusivepracticesasfollows:

"fraudulentpractice"includesamisrepresentationoffactinordertoinfluenceaprocurementordisposalprocessortheexerciseofacontracttothedetrimentoftheprocuringentityorthetendererorthecontractor,andincludescollusivepracticesamongsttendererspriortooraftertendersubmissiondesignedtoestablishtenderpricesatartificialnon-competitivelevelsandtodeprivetheprocuringentityofthebenefitsoffreeandopencompetition.

c) Rejectsaproposalforaward[1] ofacontractifPPRAdeterminesthatthefirmorindividualrecommendedforaward ,anyofitspersonnel,oritsagents,oritssub-consultants,sub-contractors,serviceproviders,suppliersand/ortheiremployees,has,directlyorindirectly,engagedincorrupt,fraudulent,collusive,coercive,orobstructivepracticesincompetingforthecontractinquestion;

d) PursuanttotheKenya'sabovestatedActsandRegulations,maysanctionordebarorrecommendtoappropriateauthority(ies)forsanctioninganddebarmentofafirmorindividual,asapplicableundertheActsandRegulations;

e) RequiresthataclausebeincludedinTenderdocumentsandRequestforProposaldocumentsrequiring(i)Tenderers(applicants/proposers),Consultants,Contractors,andSuppliers,andtheirSub-contractors,Sub-consultants,Serviceproviders,Suppliers,Agentspersonnel,permitthePPRAoranyotherappropriateauthorityappointedbyGovernmentofKenyatoinspect[2] allaccounts,recordsandotherdocumentsrelatingtotheprocurementprocess,selectionand/orcontractexecution,andtohavethemauditedbyauditorsappointedbythePPRAoranyotherappropriateauthorityappointedbyGovernmentofKenya;and

f) PursuanttoSection62oftheaboveAct,requiresApplicants/Tendererstosubmitalongwiththeir Applications/Tenders/Proposalsa"Self-DeclarationForm"asincludedintheprocurementdocumentdeclaringthattheyandallpartiesinvolvedintheprocurementprocessandcontractexecutionhavenotengaged/willnotengageinanycorruptorfraudulentpractices.

[1] *Fortheavoidanceofdoubt,aparty'sineligibilitytobeawardedacontractshallinclude,withoutlimitation,(i)applyingforpre-qualification,expressinginterestinaconsultancy,andtendering,eitherdirectlyorasanominatedsub-contractor,nominatedconsultant,nominatedmanufacturerorsupplier,ornominatedserviceprovider,inrespectofsuchcontract,and(ii)enteringintoanaddendumoramendmentintroducingamaterialmodificationtoanyexistingcontract.*

[2] *Inspectionsinthiscontextusuallyareinvestigative(i.e.,forensic)innature.Theyinvolvefact-findingactivitiesundertakenbytheInvestigatingAuthorityorpersonsappointedbytheProcuringEntitytoaddressspecificmattersrelatedtoinvestigations/audits,suchasevaluatingtheveracityofanallegationofpossibleFraudandCorruption,throughtheappropriatemechanisms.Suchactivityincludesbutisnotlimitedto:accessingandexaminingafirm'sorindividual'sfinancialrecordsandinformation,andmakingcopiesthereofasrelevant;accessingandexaminingany other documents,dataandinformation(whetherinhardcopyorelectronicformat)deemedrelevantfortheinvestigation/audit,andmakingcopiesthereofasrelevant;interviewingstaffandotherrelevantindividuals;performingphysicalinspectionsandsitevisits;andobtainingthirdpartyverificationofinformation.*

TENDERERINFORMATIONFORM

[Thetendershallfillinthis Forminaccordancewiththeinstructionsindicatedbelow.Noalterationstoitsformatshallbepermittedandnosubstitutionsshallbeaccepted.]

Date:.....*[insertdate(asday,monthandyear)ofTendersubmission*]

TenderNameandIdentification:.....[*insertidentification*

AlternativeNo.:.....*[insertidentificationNoifthisisaTenderforanalternative]*Pag

e_____of_____pages

1.Tenderer'sName*[insert Tenderer's legal name]*
2.In case of JV, legal name of each member:*[insert legal name of each member in JV]*
3.Tenderer's actual or intended country of registration: *[insert actual or intended country of registration]*
4.Tenderer'syear of registration: *[insert Tenderer's year of registration]*
5.Tenderer'sAddress in country of registration: *[insert Tenderer's legal address in country of registration]*
6.Tenderer's Authorized Representative Information Name: *[insert Authorized Representative's name]* Address: *[insert Authorized Representative's Address]* Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]* Email Address: *[insert Authorized Representative's email address]*
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ For Kenyan Tenderers a current tax clearance certificate or tax exemption certificate issued by the the Kenya Revenue Authority in accordance with ITT 3.14. ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT3.4. ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1. ☐ In case of state-owned enterprise or institution, in accordance with ITT4.6 documents establishing: (i) Legal and financial autonomy (ii) Operation under commercial law (iii) Establishing that the tenderer is not under the supervision of the Procuring Entity 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

TENDERER'SELIGIBILITY-CONFIDENTIALBUSINESSQUESTIONNAIREFORM

a) InstructiontoTenderer

Tenderisinstructedtocompletetheparticularsrequiredin thisForm,*oneformforeachentityifTenderisaJV.*Tendererisfurther remindedthatitisanoffencetogivefalseinformationonthisForm.

A. Tenderer'sdetails

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	
2	Name of the Tenderer	
3	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
4	Reference Number of the Tender	
5	Date and Time of Tender Opening	
6	Current Trade License No and Expiring date	
7	Maximum value of business which the Tenderer handles.	
8		

GeneralandSpecificDetails

b) SoleProprietor,providethefollowingdetails.

Nameinfull_____Age

_____Nationality____CountryofOrigin

_____Citizenship_____

_____

c) Partnership,providethefollowingdetails.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

(d) RegisteredCompany,providethefollowingdetails.

i) PrivateorpublicCompany_____

ii) StatethenominalandissuedcapitaloftheCompany:-

NominalKenyaShillings(Equivalent).....I

ssuedKenyaShillings(Equivalent).....

iii) GivedetailsofDirectorsasfollows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

e) DISCLOSUREOFINTEREST-InterestoftheFirmintheProcuringEntity.

i) Arethereanyperson/personsin.....(*NameofProcuringEntity)* whohasaninterestorrelationshipinthisfirm?Yes/No.....Ify

es,providedetailsasfollows.

	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer
1			
2			
3			

ii) Conflictofinterestdisclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

OnbehalfoftheTenderer,Icertifythattheinformationgivenaboveiscorrect.

FullName

_____

TitleorDesignation _____

(Signature) *(Date)*

TENDERER'SJVMEMBERS INFORMATIONFORM

[Thetendershallfillinthis Forminaccordancewiththeinstructionsindicatedbelow.Thefollowingtableshallbefilledinfor thetendererandforeachmemberofaJointVenture]].

Date:.....*[insertdate(asday,monthandyear)ofTendersubmission]*.

TenderNameandIdentification:.....*[insertidentification*AlternativeNo.:.....*[insertidentifi cationNoifthisisaTenderforanalternative]*.

Page_____of_____pages

1. Tenderer's Name: *[insert Tenderer's legal name]*
2. Tenderer's JV Member's name: *[insert JV's Member legal name]*
3. Tenderer's JV Member's country of registration: *[insert JV's Member country of registration]*
4. Tenderer's JV Member's year of registration: *[insert JV's Member year of registration]*
5. Tenderer's JV Member's legal address in country of registration:*[insert JV's Member legal address in country of registration]*
6. Tenderer's JV Member's authorized representative information Name: *[insert name of JV's Member authorized representative]* Address: *[insert address of JV's Member authorized representative]* Telephone/Fax numbers: *[insert telephone/fax numbers of JV's Member authorized representative]* Email Address: *[insert email address of JV's Member authorized representative]*
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ Articles of Incorporation (or equivalent documents of constitutionorassociation),and/orregistration documents of the legal entity named above, in accordance with ITT 4.4. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT4.6. 8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Price Schedule Forms

*[Thetenderershallfillinthese**Price Schedules**shallcoincidewiththeListofGoodsandRelatedServicesspecifiedbytheProcuringEntityintheScheduleofRequirements.]*

PriceSchedule:GoodsManufacturedOutsideKenya,tobeImported

							Date: _____ _____ Alternative No: _____ PageN° _____of _____	
1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIP *[insert place of destination]* in accordance with ITT 14.8(b)(i)	CIP Priceper line item (Col. 5x6)	Price per line item for inland transportation and other services required in Kenya to convey the Goods to their final destination specified in TDS	Total Price perLine item (Col.7+8)
[insert number of the item]	*[insertnameof good]*	*[insert countryof originof the Good]*	*[insert quoted Delivery Date]*	*[insert number of units to be supplied and name of the physical unit]*	*[insert unit price CIP per unit]*	*[insert total CIP price per line item]*	*[insert the corresponding price per line item]*	*[insert total price of the line item]*
							Total Price	

Name of tenderer *[insert complete name of tenderer]* Signature of tenderer *[signature of person signing the Tender]* Date *[Insert Date]*

PriceSchedule:GoodsManufacturedOutsideKenya,alreadyimported*

(Group C Tenders, Goods already imported)
Currencies in accordance with ITT 15

Date: _____
ITT No: _____
Alternative No: _____
Page N° _____ of _____

1	2	3	4	5	6	7	8	9	10	11	12
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITT 14.8(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITT 14.8(c)(ii), [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITT 14.8 (c) (iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITT 14.8(c)(i) (Col. 5×8)	Price per line item for inland transportation and other services required in Kenya to convey the goods to their final destination, as specified in TDS in accordance with ITT 14.8 (c)(v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITT 14.8(c)(iv)	Total Price per line item (Col. 9+10)
[insert number of the item]	*[insert name of Goods]*	*[insert country of origin of the Good]*	*[insert quoted Delivery Date]*	*[insert number of units to be supplied and name of the physical unit]*	*[insert unit price per unit]*	*[insert custom duties and taxes paid per unit]*	*[insert unit price net of custom duties and import taxes]*	*[insert price per line item net of custom duties and import taxes]*	*[insert price per line item for inland transportation and other services required in* Kenya*]*	*[insert sales and other taxes payable per item if Contract is awarded]*	*[insert total price per line item]*
										Total Tender Price	

Nameoftenderer.....*[insertcompletenameoftenderer]*Signatureoftenderer.....*[signatureofpersonsigningtheTender]*Date.....*[insertdate]*[ForpreviouslyimportedGoods,thequotedpriceshallbedistinguishablefromtheoriginalimportvalueofthese Goodsdeclaredtocustomsandshallincludeanyrebateormark-upofthelocalagentorrepresentativeandalllocalcostsexceptimportdutiesandtaxes,whichhavebeenand/orhavetobepaidbytheProcuringEntity.Forclarity,thetenderersareaskedtoquotethepriceincludingimportduties,andadditionallytoprovidetheimportdutiesandthepricenetofimportdutieswhichisthedifferenceofthosevalues.]*

PriceSchedule:GoodsManufacturedinKenya

Kenya
_____

(Group A and B Tenders)
Currencies in accordance with ITT15

Date:
_____
ITT No: _____
Alternative No:
_____
Page N° _____ of _____

Nameoftenderer.....*[insertcompletenameoftenderer]*.....Signatureoftenderer.....*[signatureofpersonsigningtheTender]*Date.....*[insertdate]*

1	2	3	4	5	6	7	8	9	10
Line Item N°	Description of Goods	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4×5)	Price per line item for inland transportation and other services required in Kenya to convey the Goods to their final destination	Cost of local labor, raw materials and components from with origin in Kenya % of Col. 5	Sales and other taxes payable per line item if Contract is awarded (in accordance with ITT 14.8(a)(ii)	Total Price per line item (Col. 6+7)
[insert number of theitem]	*[insert name of Good]*	*[insert quoted Delivery Date]*	*[insert number of units to be supplied and name of the physical unit]*	*[insert EXW unit price]*	*[insert total EXW price per line item]*	*[insert the corresponding price per line item]*	*[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]*	*[insert sales and other taxes payable per line item if Contract is awarded]*	*[insert total price per item]*
								Total Price	

Price and Completion Schedule-Related Services

Currencies in accordance with ITT15					Date: _____ ITTNo: _____ AlternativeNo: _____ PageN° _____of _____	
1	2	3	4	5	6	7
Service N°	Description of Services (excludes inland transportation and other services required in Kenya to convey the goods to their final destination)	Country of Origin	Delivery Date at place of Final destination	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6 or estimate)
[insert number of the Service]	*[insert name of Services]*	*[insert country of origin of the Services]*	*[insert delivery date at place of final destination per Service]*	*[insert number of units to be supplied and name of the physical unit]*	*[insert unit price per item]*	*[insert total price per item]*
				Total Tender Price		

Nameoftenderer.....*[insertcompletenameoftenderer]*Signatureoftenderer.....*[signatureofpersonsigningtheTender]*Date.....*[insertdate]*

FORMOFTENDERSECURITY-DEMANDBANKGUARANTEE

Beneficiary:_____

ITTNo:_____

Date:_____

TENDERGUARANTEENo.:_____

Guarantor:_____

1. Wehavebeeninformedthat (hereinaftercalled"theApplicant")hassubmittedorwillsubmittotheBeneficiaryitsTender(hereinaftercalled"theTender")fortheexecutionof_____underRequestforTendersNo._ (“theITT”).

2. Furthermore,weunderstandthat,accordingtotheBeneficiary'sconditions,TendersmustbesupportedbyaTenderguarantee.

3. AttherequestoftheApplicant,we,asGuarantor,herebyirrevocablyundertaketopaytheBeneficiaryanysumorsumsnotexceedingintotalanamountof_____*(*)uponreceiptbyusoftheBeneficiary'scomplyingdemand,supportedbytheBeneficiary'sstatement,whetherinthedemanditselforaseparatesigneddocumentaccompanyingoridentifyingthedemand,statingthateithertheApplicant:
   a) haswithdrawnitsTenderduringtheperiodofTendervaliditysetforthintheApplicant'sLetterofTender(“theTenderValidityPeriod”),oranyextensiontheretoprovidedbytheApplicant;or
   b) havingbeennotifiedoftheacceptanceofitsTenderbytheBeneficiaryduringtheTenderValidityPeriodoranyextensiontheretoprovidedbytheApplicant,(i)hasfailedtoexecutethecontractagreement,or(ii)hasfailedtofurnishthePerformance.

4. Thisguaranteewillexpire:(a)iftheApplicantisthesuccessfulTenderer,uponourreceiptofcopiesofthecontractagreementsignedbytheApplicantandthePerformanceSecurityand,or(b)iftheApplicantisnotthesuccessfulTenderer,upontheearlierof(i)ourreceiptofacopyoftheBeneficiary'snotificationtotheApplicantoftheresultsoftheTenderingprocess;or(ii)twenty-eightdaysaftertheendoftheTenderValidityPeriod.

5. Consequently,anydemandforpaymentunderthisguaranteemustbereceivedbyusattheofficeindicatedaboveonorbeforethatdate.

_____

[signature(s)]

FORMOFTENDERSECURITY(TENDERBOND)

[TheSuretyshallfillinthisTenderBondForminaccordancewiththeinstructionsindicated.]

BONDNO._____

1. BYTHISBOND.....*[nameoftenderer]*asPrincipal(hereinaftercalled"thePrincipal"),and..... .....*[name,legaltitle,andaddressofsurety],***authorizedtotransactbusinessin***[nameofcountryofProcuringEntity],*asSurety(hereinaftercalled"theSurety"),areheldandfirmlyboundunto.....*[nameofProcuringEntity]*asObligee(hereinaftercalled"theProcuringEntity")inthesumof.....*[amountofBond][1][amountinwords]*,forthepaymentofwhichsum,wellandtrulytobemade,we,thesaidPrincipalandSurety,bindourselves,oursuccessorsandassigns,jointlyandseverally,firmlybythesepresents.

2. WHEREASthePrincipalhassubmittedorwillsubmitawrittenTendertotheProcuringEntitydatedthe _____day_____of_____,20_____,forthesupplyof _____*[nameofContract]*(hereinaftercalledthe"Tender").

3. NOW,THEREFORE,THECONDITIONOFTHISOBLIGATIONissuchthatifthePrincipal:

   a) haswithdrawnitsTenderduringtheperiodofTendervaliditysetforthinthePrincipal'sLetterofTender("theTenderValidityPeriod"),oranyextensiontheretoprovidedbythePrincipal;or

   b) havingbeennotifiedoftheacceptanceofitsTenderbytheProcuringEntityduringtheTenderValidityPeriodoranyextensiontheretoprovidedbythePrincipal;(i)failedtoexecutetheContractagreement;or (ii)hasfailedtofurnishthePerformanceSecurity,inaccordancewiththeInstructionstotenderers("ITT")oftheProcuringEntity'sTenderingdocument.

   thentheSuretyundertakestoimmediatelypaytotheProcuringEntityuptotheaboveamountuponreceiptoftheProcuringEntity'sfirstwrittendemand,withouttheProcuringEntityhavingtosubstantiateitsdemand,providedthatinitsdemandtheProcuringEntityshallstatethatthedemandarisesfromtheoccurrenceofanyoftheaboveevents,specifyingwhichevent(s)hasoccurred.

4. TheSuretyherebyagreesthatitsobligationwillremaininfullforceandeffectuptoandincludingthedate30daysafterthedateofexpirationoftheTenderValidityPeriodsetforthinthePrincipal'sLetterofTenderoranyextensiontheretoprovidedbythePrincipal.

5. INTESTIMONYWHEREOF,thePrincipalandtheSuretyhavecausedthesepresentstobeexecutedintheirrespective namesthis_____dayof_____20_____.

Principal:__CorporateSeal(whereappropriate) Surety:_____

_____ _____

(Signature) *(Signature)*

(Printednameandtitle) *(Printednameandtitle)*

[1]TheamountoftheBondshallbedenominatedinthecurrencyKenyashillingsortheequivalentamountinafreelyconvertiblecurrency.

FORMOFTENDER-SECURINGDECLARATION

[TheBiddershallcompletethisForminaccordancewiththeinstructionsindicated]

Date:. . . . . *[insertdate(asday,monthandyear)ofTenderSubmission]*

TenderNo.:.....*[insertnumberoftenderingprocess]*

To:.....*[insertcompletenameofPurchaser]*I

/We,theundersigned,declarethat:

1. I/Weunderstandthat,accordingtoyourconditions,bidsmustbesupportedbyaTender-SecuringDeclaration.

2. I/WeacceptthatI/wewillautomaticallybesuspendedfrombeingeligiblefortenderinginanycontractwiththePurchaserfortheperiodoftimeof.....*[insertnumberofmonthsoryears]*startingon.....*[insertdate]*,ifweareinbreachofourobligation(s)underthebidconditions,becausewe–
(a)havewithdrawnourtenderduringtheperiodoftendervalidityspecifiedbyusintheTenderingDataSheet;or(b)havingbeennotifiedoftheacceptanceofourBidbythePurchaserduringtheperiodofbidvalidity,(i)failorrefusetoexecutetheContract,ifrequired,or(ii)failorrefusetofurnishthePerformanceSecurity,inaccordancewiththeinstructionstotenders.

3. I/WeunderstandthatthisTenderSecuringDeclarationshallexpireifwearenotthesuccessfulTenderer(s),upontheearlierof:
   a) ourreceiptofacopyofyournotificationofthenameofthesuccessfulTenderer;or
   b) thirtydaysaftertheexpirationofourTender.

4. I/WeunderstandthatifIam/weare/inaJointVenture,theTenderSecuringDeclarationmustbeinthenameoftheJointVenturethatsubmitsthebid,andtheJointVenturehasnotbeenlegallyconstitutedatthetimeofbidding,theTenderSecuringDeclarationshallbeinthenamesofallfuturepartnersasnamedintheletterofintent.

Signed:……..…….....

Capacity/title(directororpartnerorsoleproprietor,etc.)…….…….....

Name:…….....

Dulyauthorizedtosignthebidforandonbehalfof:.....*[insertcompletenameofTenderer]*.Datedon.

.....dayof.....*[Insertdateofsigning]*.

Sealorstamp.

MANUFACTURER'SAUTHORIZATIONFORM

*[ThetendershallrequiretheManufacturertofillinthisForminaccordancewiththeinstructionsindicated.Thisletterofauthorizationshouldbeontheletterhead oftheManufacturerandshouldbesignedbyapersonwiththeproperauthoritytosigndocumentsthatarebindingontheManufacturer.Thetendershallincludeitinits Tender,ifsoindicatedinthe**TDS.**]*

Date:.....*[insertdate(asday,monthandyear)ofTendersubmission]*

ITTNo.:.....*[insertnumberofITTprocess]*AlternativeNo.:.....*[inserti*

dentificationNoifthisisaTenderforanalternative]

To:.....*[insertcompletenameofProcuringEntity]*

WHEREAS

We.....*[insertcompletenameofManufacturer],*whoareofficialmanufacturersof.....*[inserttypeofgoodsmanufactured],*havingfactoriesat[insertfulladdressofManufacturer'sfactories],doherebyauthorize*[insertcompletenameoftenderer]*tosubmitaTenderthepurposeofwhichistoprovidethefollowingGoods,manufacturedbyus.....*...[insertnameandorbriefdescriptionoftheGoods],*andtosubsequentlynegotiateandsigntheContract.

WeherebyextendourfullguaranteeandwarrantyinaccordancewithClause28oftheGeneralConditionsofContract,withrespecttotheGoodsofferedbytheabovefirm.

Signed:.....*[insertsignature(s)ofauthorizedrepresentative(s)oftheManufacturer]*

Name:.....*[insertcompletename(s)ofauthorizedrepresentative(s)oftheManufacturer]*

Title:.....*[inserttitle]*

Datedon_____dayof_____,_____*[insertdateofsigning]*

PART2: SUPPLY REQUIREMENTS

Section V – Schedule of Requirements

Notes for Preparing the Schedule of Requirements

TheScheduleofRequirementsshallbeincludedintheTenderingdocumentbytheProcuringEntity,andshallcover,ataminimum,adescriptionofthegoodsandservicestobesuppliedandthedeliveryschedule.

TheobjectiveoftheScheduleofRequirementsistoprovidesufficientinformationtoenabletendererstopreparetheirTenders efficientlyandaccurately,inparticular,thePriceSchedule,forwhichaformisprovidedinSectionIV.Inaddition,theSchedule ofRequirements,togetherwiththePriceSchedule,shouldserveasabasisintheeventofquantityvariationatthetimeofawardo fcontractpursuanttoITT42.1.

Thedateorperiodfordeliveryshouldbecarefullyspecified,takingintoaccount(a)theimplicationsofdeliverytermsstipulate dintheInstructionstotendererspursuanttothe*Incoterms*rulesthat“delivery”takesplacewhengoodsaredelivered**tothefina lplaceofdelivery**,and(b)thedateprescribedhereinfromwhichtheProcuringEntity'sdeliveryobligationsstart(i.e.,noticeof award,contractsignature,openingorconfirmationoftheletterofcredit).

1. ListofGoodsandDeliverySchedule

LineItem N°	Description of Goods	Quantity	Physical unit	Final Destination as specified in TDS	Delivery(as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Tenderer's offered Delivery date [*to be provided by the tenderer*]
1.	Petroleum, oils, lubricants and LPG gas.	AWR	AS PER THE PROVIDED SPECIFICATIOS	COUNTY GOVERNMENT OF BARINGO (ALL DEPARTMENTS)	AS PER THE CONTRACT SIGNED AGREEMENT	AS PER CONTRACT SIGNED AGREEMENT	

2. Technical Specifications

2.1 The purpose of the Technical Specifications (TS), is to define the technical characteristics of the Goods and Related Services required by the Procuring Entity. The Procuring Entity shall prepare the detailed TS consider that:

i) TheTSconstitutethebenchmarksagainstwhichtheProcuringEntitywillverifythetechnicalresponsivenessof Tendersandsubsequentlyevaluatethe Tenders.Therefore,well-definedTSwillfacilitatepreparationofresponsiveTendersbytenderers,aswellasexamination,evaluation,and comparisonoftheTendersbytheProcuringEntity.

ii) TheTSshallrequirethatallgoodsandmaterialstobeincorporatedinthegoodsbenew,unused,andofthemostrecentorcurrentmodels,andthattheyincorporateallrecentimprovementsindesignandmaterials,unlessprovidedforotherwiseinthecontract.

iii) TheTSshallmakeuseofbestpractices.SamplesofspecificationsfromsuccessfulsimilarprocurementsinthesamecountryorsectormayprovideasoundbasisfordraftingtheTS.

iv) ThePPRAencouragestheuseofmetricunits.

v) Standardizingtechnicalspecificationsmaybeadvantageous,dependingonthecomplexityofthegoodsandthe petitivenessofthetypeofprocurement.TechnicalSpecificationsshouldbebroadenoughtoavoidrestrictions onworkmanship,materials,andequipmentcommonlyusedinmanufacturingsimilarkindsofgoods.

vi) Standardsforequipment,materials,andworkmanshipspecifiedintheTenderingdocumentshallnotberestrictive.Recognizedinternationalstandardsshouldbespecifiedasmuchaspossible.Referencetobrandnames,catalogue numbers,orotherdetailsthatlimitanymaterialsoritemstoaspecificmanufacturershouldbeavoidedasfar aspossible.Whereunavoidable,suchitemdescriptionshouldalwaysbefollowedbythewords“orsubstantially equivalent.”WhenotherparticularstandardsorcodesofpracticearereferredtointheTS,whetherfromtheProcuringEntity'sorfromothereligiblecountries,astatementshouldfollowotherauthoritativestandardsthatensureatleastasubstantiallyequalquality,thenthestandardsmentionedintheTSwillalsobeacceptable.

vii) Referencetobrandnamesandcataloguenumbersshouldbeavoidedasfaraspossible;whereunavoidablethewords“oratleastequivalent”shallalwaysfollowsuchreferences.

viii) TechnicalSpecificationsshallbefullydescriptiveoftherequirementsinrespectof,butnotlimitedto,thefollowing:

a) StandardsofmaterialsandworkmanshiprequiredfortheproductionandmanufacturingoftheGoods.

b) Anysustainableprocurementtechnicalrequirementsshallbeclearlyspecified.

2.2 Toencouragetenderers'innovationinaddressingsustainableprocurementrequirements,aslongastheTenderevaluationcriteriaspecifythemechanismformonetaryadjustmentsforthepurposeofTendercomparisons,tenderersmaybeinvitedtoofferGoodsthatexceedsthespecifiedminimumsustainableprocurementrequirements.

i) Detailedtestsrequired(typeandnumber).

ii) Otheradditionalworkand/orRelatedServicesrequiredtoachievefulldelivery/completion.

iii) DetailedactivitiestobeperformedbytheSupplier,andparticipationoftheProcuringEntitythereon.

iv) ListofdetailedfunctionalguaranteescoveredbytheWarrantyandthespecificationoftheliquidateddamagesto beappliedintheeventthatsuchguaranteesarenotmet.

2.3 TheTSshallspecifyallessentialtechnicalandperformancecharacteristicsandrequirements,includingguaranteedor acceptablemaximumorminimumvalues,asappropriate.Whenevernecessary,theProcuringEntityshallincludeana dditionalad-hocTenderingform(tobeanAttachmenttotheLetterofTender),wherethetenderershallprovidedetailedinformation onsuchtechnicalperformancecharacteristicsinrespecttothecorrespondingacceptableorguaranteedvalues.

WhentheProcuringEntityrequeststhatthetendererprovidesinitsTenderapartoralloftheTechnicalSpecifications,technicalsche dules,orothertechnicalinformation,theProcuringEntityshallspecifyindetailthenatureandextentoftherequiredinformationan dthemannerinwhichithastobepresentedbythetendererinitsTender.

2.4 IfasummaryoftheTechnicalSpecifications(TS)hastobeprovided,theProcuringEntityshallinsertinformationinthet ablebelow.Thetendershallprepareasimilartabletojustifycompliancewiththerequirements.

SummaryofTechnicalSpecifications: TheGoodsandRelatedServicesshallcomplywithfollowingTechnicalSpecific ationsandStandards:

ItemNo	**Name of Goods or Related Service**	**Technical Specifications and Standards**
[insert item No]	[insert name]	[insert TS and Standards]

Detailed Technical Specifications and Standards

1. **PETROLEUM, OILS, LUBRICANTS AND LPG GAS.**

ITEM N°.	DESCRIPTION	UNIT OF ISSUE	QTY	% DISCOUNT RATE ON REGULATED UNIT PRICE	FINAL UNIT PRICE ON DATE OF TENDER CLOSING (I.E. ON 11TH OCTOBER, 2015)	BRAND /ORIGIN	REMARKS
1	Spirit Premium or Super	LTR	AWR				
2	Spirit Regular	LTR	AWR				
3	Industrial Diesel oil	LTR	AWR				
4	Fuel oil	LTR	AWR				
5	Kerosene	LTR	AWR				
6	Diesel Auto	LTR	AWR				

1. OILS AND LUBRICANTS

ITEM N°	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND NAME	COUNTRY OF ORIGIN	UNIT PRICE (KSHS.)	REMARKS
1.	Petrol Engine Oil	1 Liter Jerry can	AWR				
2.	Petrol Engine Oil, 2 Liter, Jerry can	2 liter Jerry can	AWR				
3.	Petrol Engine Oil	5 liter Jerry can	AWR				
4.	Petrol Engine Oil	20 liter Jerry can	AWR				
5.	Diesel Engine Oil	1 Liter Jerry can	AWR				
6.	Diesel Engine Oil	2 liter Jerry can	AWR				
7.	Diesel Engine Oil	5 liter Jerry can	AWR				
8.	Diesel Engine Oil	20 liter Jerry can	AWR				
9.	Manual Transmission Oil, SAE 140	1 Liter Jerry can	AWR				
10.	Manual Transmission Oil, SAE 140	2 liter Jerry can	AWR				
11.	Manual Transmission Oil, SAE 140	5 liter Jerry can	AWR				
12.	Manual Transmission	20 liter Jerry can	AWR				

ITEM N°	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND NAME	COUNTRY OF ORIGIN	UNIT PRICE (KSHS.)	REMARKS
	Oil, SAE 140						
13.	Gear Box Oil	1 Liter Jerry can	AWR				
14.	Gear Box Oil	2 Liter Jerry can	AWR				
15.	Gear Box Oil	5 liter Jerry can	AWR				
16.	Gear Box Oil	20 liter Jerry can	AWR				
17.	Grease	1/2 Kg Tin	AWR				
18.	Grease	1 Kg Tin	AWR				
19.	Grease	3 Kg Tin	AWR				
20.	Grease	20 Kg Tin	AWR				
21.	Brake Fluid	1 Liter Jerry can	AWR				
22.	Brake Fluid	2 liter Jerry can	AWR				
23.	Brake Fluid	5 liter Jerry can	AWR				
24.	Brake Fluid	20 liter Jerry can	AWR				
25.	Manual Transmission Oil, SAE90	1 Liter Jerry can	AWR				
26.	Manual Transmission Oil, SAE90	2 liter Jerry can	AWR				
27.	Manual Transmission Oil, SAE90	5 liter Jerry can	AWR				
28.	Manual Transmission Oil, SAE90	20 liter Jerry can	AWR				
29.	Limited Slip Differential Oil	1 Liter Jerry can	AWR				
30.	Limited Slip Differential Oil	2 liter Jerry can	AWR				
31.	Limited Slip Differential Oil	5 liter Jerry can	AWR				
32.	Limited Slip Differential Oil	20 liter Jerry can	AWR				
33.	Automatic Transmission Fluid	1 Liter Jerry can	AWR				
34.	Automatic	2 liter	AWR				

ITEM N°	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND NAME	COUNTRY OF ORIGIN	UNIT PRICE (KSHS.)	REMARKS
	Transmission Fluid	Jerry can					
35.	Automatic Transmission Fluid	5 liter Jerry can	AWR				
36.	Automatic Transmission Fluid	20 liter Jerry can	AWR				
37.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 10W	1 Liter Jerry can	AWR				
38.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 10W	2 liter Jerry can	AWR				
39.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 10W	5 liter Jerry can	AWR				
40.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 10W	20 liter Jerry can	AWR				
41.	Hydraulic Oil ISO 32	1 Liter Jerry can	AWR				
42.	Hydraulic Oil ISO 32	2 liter Jerry can	AWR				
43.	Hydraulic Oil ISO 32	5 liter Jerry can	AWR				
44.	Hydraulic Oil ISO 32	20 liter Jerry can	AWR				
45.	Hydraulic Oil ISO 46	1 Liter Jerry can	AWR				
46.	Hydraulic Oil ISO 46	2 liter Jerry can	AWR				
47.	Hydraulic Oil ISO 46	5 liter Jerry can	AWR				
48.	Hydraulic Oil ISO 46	20 liter Jerry can	AWR				
49.	Hydraulic Oil ISO 68	1 Liter Jerry can	AWR				
50.	Hydraulic Oil ISO 68	2 liter Jerry can	AWR				
51.	Hydraulic Oil ISO 68	5 liter Jerry can	AWR				

ITEM N°	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND NAME	COUNTRY OF ORIGIN	UNIT PRICE (KSHS.)	REMARKS
52.	Hydraulic Oil ISO 68	20 liter Jerry can	AWR				
53.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 30	1 Liter Jerry can	AWR				
54.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 30	2 liters Jerry can	AWR				
55.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 30	5 liter Jerry can	AWR				
56.	HD Power Shift Transmission Fluid (Torque Fluid) SAE 30	20 liter Jerry can	AWR				
57.	Graphite Grease	1 Kg Tin	AWR				
58.	Graphite Grease	2 Kg Tin	AWR				
59.	Graphite Grease	5 Kg Tin	AWR				
60.	Graphite Grease	20 Kg Tin	AWR				
61.	Distilled Water	1 Liter Bottle	AWR				
62.	Distilled Water	2 liter Jerry can	AWR				
63.	Distilled Water	5 liter Jerry can	AWR				
64.	Distilled Water	20 liter Jerry can	AWR				
65.	Battery Acid (1 liter)	1 Liter Bottle	AWR				
66.	Battery Acid (2 liter)	2 liter Jerry can	AWR				
67.	Battery Acid (5 liter)	5 liter Jerry can	AWR				
68.	Battery Acid (20 liter)	20 liter Jerry can	AWR				

2. LPG GAS

ITEM NO.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	UNIT PRICE (Kshs)	REMARKS
1.	**LPG – Gas complete unit: (Gas, cylinder & accessories)**				

	(a)	6 Kg	AWR		
	(b)	13 Kg	AWR		
	(c)	35 Kg	AWR		
2.	**LPG – Gas Refill:**				
	(a)	6 Kg	AWR		
	(b)	13 Kg	AWR		
	(c)	35 Kg	AWR		

PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTIONVI-GENERALCONDITIONSOFCONTRACT

1. Definitions

IntheConditionsofContract("theseConditions"),whichincludeSpecialConditions,PartsAandB,andtheseGeneral Conditions,thefollowingwordsandexpressionsshallhavethemeaningsstated.Wordsindicatingpersonsorpartiesin cludecorporationsandotherlegalentities,exceptwherethecontextrequiresotherwise.

a) "Contract"meanstheContractAgreemententeredintobetweentheProcuringEntityandtheSupplier,together withtheContractDocumentsreferredtotherein,includingallattachments,appendices,andalldocumentsinco rporatedbyreferencetherein.

b) "ContractDocuments"meansthedocumentslistedintheContractAgreement,includinganyamendmentsther eto.

c) "ContractPrice"meansthepricepayabletotheSupplierasspecifiedintheContractAgreement,subjecttosucha dditionsandadjustmentstheretoordeductionstherefrom,asmaybemadepursuanttotheContract.

d) "Day"meanscalendarday.

e) "Completion"meansthefulfilmentoftheRelatedServicesbytheSupplierinaccordancewiththetermsandcon ditionssetforthintheContract.

f) "GCC"meanstheGeneralConditionsofContract.

g) "Goods"meansallofthecommodities,rawmaterial,machinery,fuelcardsandequipment,and/orothermateria lsthattheSupplierisrequiredtosupplytotheProcuringEntityundertheContract.

h) "ProcuringEntity"meanstheProcuringEntitypurchasingtheGoodsandRelatedServices,as**specifiedintheS CC.**

i) "RelatedServices"meanstheservicesincidentaltothesupplyofthegoods,suchasinsurance,delivery,installat ion,commissioning,trainingandinitialmaintenanceandothersuchobligationsoftheSupplierundertheContra ct.

j) "SCC"meanstheSpecialConditionsofContract.

k) "Subcontractor"meansanyperson,privateorgovernmententity,oracombinationoftheabove,towhomanypar toftheGoodstobesuppliedorexecutionofanypartoftheRelatedServicesissubcontractedbytheSupplier.

l) "Supplier"meanstheperson,privateorgovernmententity,oracombinationoftheabove,whoseTendertoperfor mtheContracthasbeenacceptedbytheProcuringEntityandisnamedassuchintheContractAgreement.

m) **"BaseDate"**meansadate30daypriortothesubmissionoftenders.

n) **"Laws"**meansallnationallegislation,statutes,ordinances,andregulationsandby-lawsofanylegallyconstitutedpublicauthority.

o) **"LetterofAcceptance"**meanstheletterofformalacceptance,signedbythecontractor.ProcuringEntity,inclu dinganyannexedmemorandacomprisingagreementsbetweenandsignedbybothParties.

p) **"ProcuringEntity"**meanstheEntitynamedintheSpecialConditionsofContract.

2. Interpretation

2.1. Ifthecontextsorequiresit,singularmeanspluralandviceversa.

2.2. Incoterms

a) Unlessinconsistentwithanyprovisionof theContract**,**themeaningofanytradetermandtherightsandobligations ofpartiesthereundershallbeasprescribedbyIncoterms**specifiedintheSCC**.

b) ThetermsEXWandCIPandothersimilarterms,whenused,shallbegovernedbytherulesprescribedinthecurrent editionofIncotermsspecifiedin**the SCC**andpublishedbytheInternationalChamberofCommerceinParis,France.

3. ContractDocuments

Subjecttotheorderofprecedencesetforthin theContractAgreement,alldocumentsformingtheContract(andallpartsthereof)areintendedtobecorrelative,complementary,andmutuallyexplanatory.TheContractAgreementshallbereadasawhole.ThedocumentsformingtheContractshallbeinterpretedinthefollowingorderofpriority:

a) theContractAgreement,
b) theLetterofAcceptance,
c) theGeneralConditionsofContract
d) SpecialConditionsofContract
e) theFormofTender,
f) theSpecificationsandSchedulesoftheDrawings(ifany),and
g) theSchedulesofRequirements,PriceScheduleandanyotherdocumentsformingpartoftheContract.

4. FraudandCorruption

3.1 Thesuppliershallcomplywithanti-corruptionlawsandguidelinesandtheprevailingsanctions,policiesandproceduresassetforthintheLawsofKenya.

3.2 TheSuppliershalldiscloseanycommissions,gratuityorfeesthatmayhavebeenpaidoraretobepaidtoagentsoranyotherpersonwithrespecttotheTenderingprocessorexecutionoftheContract.Theinformationdisclosedmustincludeatleastthenameandaddressoftheagentorotherparty,theamountandcurrency,andthepurposeofthecommission,gratuityorfee.

4.1 EntireAgreement

4.3.1 TheContractconstitutestheentireagreementbetweentheProcuringEntityandtheSupplierandsupersedesallcommunications,negotiationsandagreements(whetherwrittenororal)ofthepartieswithrespecttheretomadepriortothedateofContract.

4.2 Amendment

NoamendmentorothervariationoftheContractshallbevalidunlessitisinwriting,isdated,expresslyreferstotheContract,andissignedbyadulyauthorizedrepresentativeofeachpartythereto.

4.3 Non-waiver

a) SubjecttoGCCSub-Clause4.5(b)below,norelaxation,forbearance,delay,orindulgencebyeitherpartyinenforcinganyoftheterms andconditionsoftheContractorthegrantingoftimebyeitherpartytotheothershallprejudice,affect,orrestrictthe rightsofthatpartyundertheContract,neithershallanywaiverbyeitherpartyofanybreachofContractoperateas awaiverofanysubsequentorcontinuingbreachofContract.

b) Anywaiverofaparty'srights,powers,orremediesundertheContractmustbeinwriting,dated,andsignedbyan authorizedrepresentativeofthepartygrantingsuchwaiver,andmustspecifytherightandtheextenttowhichitisbeingwaived.

4.4 Severability

IfanyprovisionorconditionoftheContractisprohibitedorrenderedinvalidorunenforceable,suchprohibition,invalidityorunenforceabilityshallnotaffectthevalidityorenforceabilityofanyotherprovisionsandconditionsoftheContract.

5. Language

5.1 TheContractaswellasallcorrespondenceanddocumentsrelatingtotheContractexchangedbytheSupplierandthePr ocuringEntity,shallbewritteninthe**EnglishLanguage.**Supportingdocumentsandprintedliteraturethatarepartofth eContractmaybeinanotherlanguageprovidedtheyareaccompaniedbyanaccurateandcertifiedtranslationoftherele vantpassagesinthe**EnglishLanguage,**inwhichcase,forpurposesofinterpretationoftheContract,theEnglishlangu ageistranslationshallgovern.

5.2 TheSuppliershallbearallcostsoftranslationtothegoverninglanguageandallrisksoftheaccuracyofsuchtranslation, fordocumentsprovidedbytheSupplier.

6. JointVenture,ConsortiumorAssociation

6.1IftheSupplierisajointventure,consortium,orassociation,allofthepartiesshallbejointlyandseverallyliabletothePrcuri ngEntityforthefulfilmentoftheprovisionsoftheContractandshalldesignateonememberofthejointventure,consort ium,orassociationtoactasaleaderwithauthoritytobindthejointventure,consortium,orassociation.Thecompositio northeconstitutionofthejointventure,consortium,orassociationshallnotbealteredwithoutthepriorwrittenconsent oftheProcuringEntity.

7. Eligibility

7.1 TheSupplieranditsSubcontractorsshallhavethenationalityofaneligiblecountry.ASupplierorSub- contractorshallbedeemedtohavethenationalityofacountryifitisacitizenorconstituted,incorporated,orregistered, andoperatesinconformitywiththeprovisionsofthelawsofthatcountry.

7.2 AllGoodsandRelatedServicestobesuppliedundertheContractshallhavetheiroriginineligibleCountries.Forthepu rposeofthisClause,originmeansthecountrywherethegoodshavebeengrown,mined,cultivated,produced,manufac tured,orprocessed;orthroughmanufacture,processing,orassembly,anothercommerciallyrecognizedarticleresult sthatdifferssubstantiallyinitsbasiccharacteristicsfromitscomponents.

7.3 TheTenderer,ifaKenyanfirm,mustsubmitwithitstenderavalidtaxcompliancecertificatefromtheKenyaRevenueA uthority.

8. Notices

8.1 AnynoticegivenbyonepartytotheotherpursuanttotheContractshallbeinwritingtotheaddressspecifiedinthe**SCC.** Theterm“inwriting”meanscommunicatedinwrittenformwithproofofreceipt.

8.2 Anoticeshallbeeffectivewhendeliveredoronthenotice'seffectivedate,whicheverislater.

9. GoverningLaw

9.1 TheContractshallbegovernedbyandinterpretedinaccordancewiththelawsofKenya.

9.2 ThroughouttheexecutionoftheContract,theSuppliershallcomplywiththeimportofgoodsandservicesprohibitions inKenya:

a) where,asamatteroflaw,complianceorofficialregulations,Kenyaprohibitscommercialrelationswiththatcou ntryoranyimportofgoodsfromthatcountryoranypaymentstoanycountry,person,orentityinthatcountry;or

b) byanactofcompliancewithadecisionoftheUnitedNationsSecurityCounciltakenunderChapterVIIoftheCha rteroftheUnitedNations,Kenyaprohibitsanyimportofgoodsfromthatcountryoranypaymentstoanycountry, person,orentity.

10. SettlementofDisputes

10.1 TheProcuringEntityandtheSuppliershallmakeeveryefforttoresolveamicablybydirectnegotiationanydisagreeme ntordisputearisingbetweenthemunderorinconnectionwiththeContract.

10.2 If,afterthirty(30)days,thepartieshavefailedtoresolvetheirdisputeordifferencebysuchmutualconsultation,theneit hertheProcuringEntityortheSuppliermaygivenoticetotheotherpartyofitsintentiontocommence

arbitration,ashereinafterprovided,astothematterindispute,andnoarbitrationinrespectofthismattermaybecommencedunlesssuchnoticeisgiven.AnydisputeordifferenceinrespectofwhichanoticeofintentiontocommencearbitrationhasbeengiveninaccordancewiththisClauseshallbefinallysettledbyarbitration.Arbitrationmaybecommencedpriortoorafterdeliveryofthe GoodsunderthecContract.

10.2 Arbitrationproceedingsshallbeconductedasfollows:

10.2.1 AnyclaimordisputebetweenthePartiesarisingoutoforinconnectionwiththeContractnotsettledamicablyinaccordancewithSub-Clause10.1shallbefinallysettledbyarbitration.

10.2.2 Noarbitrationproceedingsshallbecommencedonanyclaimordisputewherenoticeofaclaimordisputehasnotbeengivenbytheapplyingpartywithinthirtydaysoftheoccurrenceordiscoveryofthematterorissuegivingrisetothedispute.

10.2.3 Notwithstandingtheissueofanoticeasstatedabove,thearbitrationofsuchaclaimordisputeshallnotcommenceunlessanattempthasinthefirstinstancebeenmadebythepartiestosettlesuchclaimordisputeamicablywithorwithouttheassistanceofthirdparties.Proofofsuchattemptshallberequired.

10.2.4 TheArbitratorshall,withoutprejudicetothegeneralityofhispowers,havepowerstodirectsuchmeasurements,computations,orvaluationsasmayinhisopinionbedesirableinordertodeterminetherightsofthepartiesandassessandawardanysumswhichoughttohavebeenthesubjectoforincludedinanyduepayments.

10.2.5 NeitherPartyshallbelimitedintheproceedingsbeforethearbitratorstotheevidence,ortothereasonsforthedisputegiveninitsnoticeofaclaimordispute.

10.2.6 Arbitrationmaybecommencedpriortoorafterdeliveryofthegoods.TheobligationsofthePartiesshallnotbealteredbyreasonofanyarbitrationbeingconducteduringtheprogressofthedeliveryofgoods.

10.2.7 Thetermsoftheremunerationofeachoralltheme mbersofArbitrationshallbemutuallyagreeduponbythePartieswhenagreeingthetermsofappointment.EachPartyshallberesponsibleforpayingone-halfofthisremuneration.

10.3 ArbitrationProceedings

10.3.1 ArbitrationproceedingswithnationalsupplierswillbeconductedinaccordancewiththeArbitrationLawsofKenya.Incaseofanyclaimordispute,suchclaimordisputeshallbenotifiedinwritingbyeitherpartytotheotherwitharequesttosubmitittoarbitrationandtoconcurintheappointmentofanArbitratorwithinthirtydaysofthenotice.Thedisputeshallbereferredtothearbitrationandfinaldecisionofapersonorpersonstobeagreedbetweentheparties.Failingagreementtoconcurintheappointmentofan Arbitrator,theArbitratorshallbeappointed,ontherequestoftheapplyingparty,bytheChairmanorViceChairmanofanyofthefollowingprofessionalinstitutions;

i) KenyaNationalChamberofCommerce

ii) CharteredInstituteofArbitrators(KenyaBranch)

iii) TheLawSocietyofKenya

10.3.2 Theinstitutionwrittentofirstbytheaggrievedpartyshalltakeprecedenceoverallotherinstitutions.

10.3.3 AlternativeArbitrationProceedings

Alternatively,thePartiesmayreferthemattertotheNairobiCentreforInternationalArbitration(NCIA)whichoffersaneutralvenuefortheconductofnationalandinternationalarbitrationwithcommitmenttoprovidinginstitutionalsupporttothearbitralprocess.

10.4 ArbitrationwithForeignSuppliers

10.4.1 ArbitrationwithforeignsuppliersshallbeconductedinaccordancewiththearbitrationrulesoftheUnitedNationsCommissiononInternationalTradeLaw(UNCITRAL);orwithproceedingsadministeredbytheInternationalChamberofCommerce(ICC)andconductedundertheICCRulesofArbitration;byoneormorearbitratorsappointedinaccordancewithsaidarbitrationrules.

10.4.2 Theplaceofarbitrationshallbealocationspecifiedinthe**SCC;**andthearbitrationshallbeconductedinthelanguagefo rcommunicationsdefinedinSub-Clause1.4[LawandLanguage].

10.5 AlternativeArbitrationProceedings

Alternatively,thePartiesmayreferthemattertotheNairobiCentreforInternationalArbitration(NCIA)whichoffers aneutralvenuefortheconductofnationalandinternationalarbitrationwithcommitmenttoprovidinginstitutionalsu pporttothearbitralprocess.

10.6 FailuretoComplywithArbitrator'sDecision

10.6.1 TheawardofsuchArbitratorshallbefinalandbindinguponthepartie s.

10.6.1 IntheeventthataPartyfailstocomplywithafinalandbindingArbitrator'sdecision,thentheotherPartymay,withoutprejud icetoanyotherrightsitmayhave,referthemattertoacompetentcourtoflaw.

10.7 Contractoperationscontinue

Notwithstandinganyreferencetoarbitrationherein,

a) thepartiesshallcontinuetoperformtheirrespectiveobligationsundertheContractunlesstheyotherwiseagree; and

b) theProcuringEntityshallpaytheSupplieranymoniesduetheSupplier.

11. InspectionsandAuditbytheProcuringEntity

11.1 TheSuppliershallkeep,andshallcauseitsSubcontractorstokeep,accurateandsystematicaccountsandrecordsinres pectoftheGoodsinsuchformanddetailsaswillclearlyidentifyrelevanttime,changesandcosts.

11.2 Pursuanttoparagraph2.2ofInstructiontoTenderers,theSuppliershallpermitandshallcauseitssubcontractorstoper mit,theProcuringEntityand/orpersonsappointedbytheProcuringEntityorbyotherstatutorybodiesoftheGovernm enttoinspecttheSiteand/ortheaccountsandrecordsrelatingtotheprocurementprocess,selectionand/orcontractexe cution,andtohavesuchaccountsandrecordsauditedbyauditorsappointedbytheProcuringEntity.TheSupplier'sand itsSubcontractors'attentionisdrawntoSub-Clause3.1whichprovides,interalia,thatactsintendedtomateriallyimpedetheexerciseoftheProcuringEntity'sinsp ectionandauditrightsconstituteaprohibitedpracticesubjecttocontracttermination,aswellastoadeterminationofin eligibility.

12. ScopeofSupply

12.1 TheGoodsandRelatedServicestobesuppliedshallbeasspecifiedintheScheduleofRequirements.

3. DeliveryandDocuments

13.1 SubjecttoGCCSub-Clause33.1,thedeliveryoftheGoodsandcompletionoftheRelatedServicesshallbeinaccordancewiththeListofGo odsandDeliveryScheduleSpecifiedintheSupplyRequirements.Thedetailsofshippingandotherdocumentstobefur nishedbytheSupplierarespecifiedinthe**SCC.**

4. Supplier'sResponsibilities

14.1 TheSuppliershallsupplyalltheGoodsandRelatedServicesincludedintheScopeofSupplyinaccordancewit hGCCClause12,andtheDeliveryandCompletionSchedule,asperGCCClause13.

5. ContractPrice

15.1 PriceschargedbytheSupplierfortheGoodssuppliedandtheRelatedServicesperformedundertheContractshallnot varyfromthepricesquotedbytheSupplierinitsTender,withtheexceptionofanypriceadjustmentsauthorizedinthe**S CC.**

15.2 Wherethecontractpriceisdifferentfromthecorrectedtenderprice,inordertoensurethesupplierisnotpaidlessormor erelativetothecontractprice(*whichwouldbethetenderprice*),anypartialpaymentvaluationbased

onratesintheschedule ofpricesintheTender,willbeadjustedbyaplusorminuspercentage.Thepercentagealreadywo rkedoutduringtenderevaluationisworkedoutasfollows:*(correctedtenderprice–tenderprice)/tenderpriceX100*.

6. TermsofPayment

16.1 TheSuppliershallrequestforpaymentbysubmittinginvoice(s),deliverynote(s)andanyotherrelevantdocumentsas specifiedintheSCCtotheProcuringEntity.

16.2 PaymentsshallbemadepromptlybytheProcuringEntity,butnotlaterthanthirty(30)daysaftersubmissionofaninvoi cebytheSupplier,andafterttheProcuringEntityhasacceptedit.

16.3 WhereaProcuringEntityrejectsGoodsandRelatedServices,inpartorwholly,theprocuringEntityshallpromptlyinf ormtheSuppliertocollect,replaceorrectifyasappropriateandgivereasonsforrejection.TheSuppliershallsubmitafr eshinvoice,deliverynoteandanyotherrelevantdocumentsasspecifiedintheSCC.

16.4 ThecurrenciesinwhichpaymentsshallbemadetotheSupplierunderthisContractshallbethoseinwhichtheTenderpr iceisexpressed.

16.5 IntheeventthattheProcuringEntityfailstopaytheSupplieranypaymentbyitsduedateorwithintheperiodsetforthint he**SCC,**theProcuringEntitymaypaytotheSupplierinterestontheamountofsuchdelayedpaymentattherateshowni ntthe**SCC,**fortheperiodofdelayuntilpaymenthasbeenmadeinfull,whetherbeforeorafterjudgmentorarbitrageawa rd.

TaxesandDuties

17.1 TheSuppliershallbeentirelyresponsibleforalltaxes,duties,licensefees,andothersuchleviesincurredtodelivertheGoo dsandRelatedServicestotheProcuringEntityatthefinaldeliverypoint.

17.3 Ifanytaxexemptions,reductions,allowancesorprivilegesmaybeavailabletotheSupplierinKenya,theSuppliershallin formtheProcuringEntityandtheProcuringEntityshalluseitsbesteffortstoenabletheSuppliertobenefitfromanysuc htaxsavingstothemaximumallowableextent.

7. PerformanceSecurity

18.1 IfrequiredasspecifiedintheSCC,theSuppliershall,withintwenty-eight(28)daysofthenotificationofcontractaward,provideaperformancesecurityfortheperformanceoftheContrac tintheamountspecifiedinthe**SCC.**

18.2 TheproceedsofthePerformanceSecurityshallbepayabletotheProcuringEntityascompensationforanylossresulti ngfromtheSupplier'sfailuretocompleteitsobligationsundertheContract.

18.3 Asspecifiedin**theSCC**,thePerformanceSecurity,ifrequired,shallbedenominatedinthecurrency(ies)oftheContra ct,orinafreelyconvertiblecurrencyacceptabletotheProcuringEntity;andshallbeinoneoftheformatsstipulatedbyt heProcuringEntityin**theSCC**,orinanotherformatacceptabletotheProcuringEntity.

18.4 ThePerformanceSecurityshallbedischargedbytheProcuringEntityandreturnedtotheSuppliernotlaterthanthirty(30)daysfollowingthedateofCompletionoftheSupplier'sperformanceobligationsundertheContract,includingan ywarrantyobligations,unlessspecifiedotherwiseinthe**SCC.**

8. Copyright

19.1 Thecopyrightinalldrawings,documents,andothermaterialscontainingdataandinformationfurnishedtotheProcuring EntitybytheSupplierhereinshallremainvestedintheSupplier,or,iftheyarefurnishedtotheProcuringEntitydirectly orthroughtheSupplierbyanythirdparty,includingsuppliersofmaterials,thecopyrightinsuchmaterialsshallremain vestedinsuchthirdparty.

9. ConfidentialInformation

20.1 TheProcuringEntityandtheSuppliershallkeepconfidentialandshallnot,withoutthewrittenconsentoftheotherpart yhereto,divulgetoanythirdpartyanydocuments,data,orotherinformationfurnisheddirectlyorindirectlybytheothe rpartyheretoinconnectionwiththeContract,whethersuchinformationhasbeenfurnishedpriorto,duringorfollowin gcompletionorterminationoftheContract.Notwithstandingtheabove,theSuppliermayfurnishtoitsSub-Suppliersuchdocuments,data,andotherinformationitreceivesfromtheProcuringEntitytotheextentrequiredforth

eSubSuppliertoperformitsworkundertheContract,inwhicheventtheSuppliershallobtainfromsuchSubSupplieru ndertakingofconfidentialitysimilartothatimposedontheSupplierunderGCCClause20.

20.2 TheProcuringEntityshallnotusesuchdocuments,data,andotherinformationreceivedfromtheSupplierforanypurp osesunrelatedtothecontract.Similarly,theSuppliershallnotusesuchdocuments,data,andotherinformationreceiv edfromtheProcuringEntityforanypurposeotherthantheperformanceoftheContract.

20.3 TheobligationofapartyunderGCCSub-Clauses20.1and20.2above,however,shallnotapplytoinformationthat:

a) theProcuringEntityorSupplierneedtosharewithotherarmsofGovernmentorotherbodiesparticipatinginthe financingoftheContract;suchpartiesshalldedisclosedin**theSCC;**

b) noworhereafterentersthepublicdomainthroughnofaultofthatparty;

c) canbeproventohavebeenpossessedbythatpartyatthetimeofdisclosureandwhichwasnotpreviouslyobtained ,directlyorindirectly,fromtheotherparty;or

d) otherwiselawfullybecomesavailabletothatpartyfromathirdpartythathasnoobligationofconfidentiality.

20.4 TheaboveprovisionsofGCCClause20shallnotinanywaymodifyanyundertakingofconfidentialitygivenbyeither ofthepartiesheretopriortothedateoftheContractinrespectoftheSupplyoranyparthereof.

20.5 TheprovisionsofGCCClause20shallsurvivecompletionortermination,forwhateverreason,oftheContract.

10. Subcontracting

21.1 TheSuppliershallnotifytheProcuringEntityinwritingofallsubcontractsawardedundertheContractifnotalreadysp ecifiedintheTender.Suchnotification,intheoriginalTenderorlatershallnotrelievetheSupplierfromanyofitsobligat ions,duties,responsibilities,orliabilityundertheContract.

21.2 SubcontractsshallcomplywiththeprovisionsofGCCClauses3and7.

11. SpecificationsandStandards

22.1 TechnicalSpecificationsandDrawings

a) TheGoodsandRelatedServicessuppliedunderthisContractshallconformtothetechnicalspecificationsandst andardsmentionedinSectionVI,ScheduleofRequirementsand,whennoapplicablestandardismentioned,the standardshallbeequivalentorsuperiortotheofficialstandardswhoseapplicationisappropriatetotheGoods'co untryoforigin.

b) TheSuppliershallbeentitledtodisclaimresponsibilityforanydesign,data,drawing,specificationorotherdocu ment,oranymodificationthereofprovidedordesignedbyoronbehalfoftheProcuringEntity,bygivinganoticeo fsuchdisclaimertotheProcuringEntity.

c) WhereverreferencesaremadeintheContracttocodesandstandardsinaccordancewithwhichitshallbeexecute d,theeditionortherevisedversionofsuchcodesandstandardsshallbethosespecifiedintheScheduleofRequire ments.DuringContractexecution,anychangesinanysuchcodesandstandardsshallbeappliedonlyafterappro valbytheProcuringEntityandshallbetreatedinaccordancewithGCCClause33.

12. PackingandDocuments

23.1 TheSuppliershallprovidesuchpackingoftheGoodsasisrequiredtopreventtheirdamageordeteriorationduringtran sittotheirfinaldestination,asindicatedintheContract.Duringtransit,thepackingshallbesufficienttowithstand,wit houtlimitation,roughhandlingandexposuretoextremetemperatures,saltandprecipitation,andopenstorage.Packi ngcasesizeandweightsshalltakeintoconsideration,whereappropriate,theremotenessofthegoods'finaldestination andtheabsenceofheavyhandlingfacilitiesatallpointsintransit.

23.2 Thepacking,marking,anddocumentationwithinandoutsidethepackagesshallcomplystrictlywithsuchspecialrequirementsasshallbeexpresslyprovidedforintheContract,includingadditionalrequirements,ifany,specified**inthe SCC**,andinanyotherinstructionsorderedbytheProcuringEntity.

13. Insurance

24.1 Unlessotherwisespecifiedin**the SCC,**theGoodssuppliedundertheContractshallbefullyinsured—inafreelyconvertiblecurrencyfromaneligiblecountry—againstlossordamageincidentaltomanufactureoracquisition,transportation,storage,anddelivery,inaccordancewiththeapplicableIncotermsorinthemannerspecifiedin**the SCC.**

14. TransportationandIncidentalServices

25.1 Unlessotherwisespecifiedin**the SCC,**responsibilityforarrangingtransportationoftheGoodsshallbeinaccordancewiththespecifiedIncoterms.

25.2 TheSuppliermayberequiredtoprovideanyoralloftheFollowingservices,includingadditionalservices,ifany,specified**in SCC:**

a) performanceorsupervisionofon-siteassemblyand/orstart-upofthesuppliedGoods;

b) furnishingoftoolsrequiredforassemblyand/ormaintenanceofthesuppliedGoods;

c) furnishingofadetailedoperationsandmaintenancemanualforeachappropriateunitofthesuppliedGoods;

d) performanceorsupervisionormaintenanceand/orrepairofthesuppliedGoods,foraperiodoftimeagreedbytheparties,providedthatthisserviceshallnotrelievetheSupplierofanywarrantyobligationsunderthisContract;and

e) trainingoftheProcuringEntity'spersonnel,attheSupplier'splantand/oron-site,inassembly,start-up,operation,maintenance,and/orrepairofthesuppliedGoods.

25.3 PricechargedbytheSupplierforincidentalservices,ifnotincludedintheContractPricefortheGoods,shallbeagreeduponinadvancebythepartiesandshallnotexceedtheprevailingrateschargedtootherpartiesbytheSupplierforsimilarservices

15. InspectionsandTests

26.1 TheSuppliershallatitsownexpenseandatnocosttotheProcuringEntitycarryoutallsuchtestsand/orinspectionsoftheGoodsandRelatedServicesasarespecifiedin**the SCC.**

26.2 Theinspectionsandtestsmaybeconductedonthepremisesofthe**Supplier**oritsSubcontractor,atpointofdelivery,and/orattheGoods'finaldestination,orinanotherplaceinKenyaasspecifiedin**the SCC.**SubjecttoGCCSub-Clause26.3,ifconductedonthepremisesofthe**Supplier**oritsSubcontractor,allreasonablefacilitiesandassistance,includingaccesstodrawingsandproductiondata,shallbefurnishedtotheinspectorsatnochargetotheProcuringEntity.

26.3 TheProcuringEntityoritsdesignatedrepresentativeshallbeentitledtoattendthetestsand/orinspectionsreferredtoinGCCSub-Clause26.2,providedthattheProcuringEntitybearallofitsowncostsandexpensesincurredinconnectionwithsuchattendanceincluding,butnotlimitedto,alltravellingandboardandlodgingexpenses.

26.4 WhenevertheSupplierisreadytocarryoutanysuchtestandinspection,itshallgiveareasonableadvancenotice,includingtheplaceandtime,totheProcuringEntity.TheSuppliershallobtainfromanyrelevantthirdpartyormanufacturerannynecessarypermissionorconsenttoenabletheProcuringEntityoritsdesignatedrepresentativetoattendthetestand/orinspection.

26.5 TheProcuringEntitymayrequiretheSuppliertocarryoutanytestand/orinspectionnotrequiredbytheContractbutdeemednecessarytoverifythatthecharacteristicsandperformanceoftheGoodscomplywiththetechnicalspecificationscodesandstandardsundertheContract,providedthattheSupplier'sreasonablecostsandexpensesincurredintheCarryingoutofsuchtestand/orinspectionshallbeaddedtotheContractPrice.Further,ifsuchtestand/orinspectionimpedestheprogressofmanufacturingand/ortheSupplier'sperformanceofitsotherobligationsundertheContract,dueallowancewillbemadeinrespectoftheDeliveryDatesandCompletionDatesandtheotherobligationssoaffected.

26.6 TheSuppliershallprovidetheProcuringEntitywithareportoftheresultsofanysuchtestand/orinspection.

26.7 TheProcuringEntitymayrejectanyGoodsoranyparttherefofthatfailtopassanytestand/orinspectionordonotconformtothespecifications.TheSuppliershalleitherrectifyorreplacesuchrejectedGoodsorpartsthereoformakealterationsnecessarytomeetthespecificationsatnocosttotheProcuringEntity,andshallrepeatthetestand/orinspection,atnocosttotheProcuringEntity,upongivinganoticepursuanttoGCCSub-Clause26.4.

26.8 TheSupplieragreesthatneithertheexecutionofatestand/orinspectionoftheGoodsoranyparttherefof,northeattendancebytheProcuringEntityoritsrepresentative,northeissueofanyreportpursuanttoGCCSub-Clause26.6,shallreasetheSupplierfromanywarrantiesorotherobligationsundertheContract.

16. LiquidatedDamages

27.1 ExceptasprovidedunderGCCClause32,iftheSupplierfailstodeliveranyorallofftheGoodsbytheDate(s)ofdeliveryorperformtheRelatedServiceswithintheperiodspecifiedintheContract,theProcuringEntitymaywithoutprejudicetoallitsotherremediesundertheContract,deductfromtheContractPrice,asliquidateddamages,asumequivalenttothepercentagespecifiedinthe**SCC**ofthedeliveredpriceofthedelayedGoodsorunperformedServicesforeachweekorpartthereofofdelayuntilactualdeliveryorperformance,uptoamaximumdeductionofthepercentagespecifiedinthose **SCC.**Oncethemaximumisreached,theProcuringEntitymayterminatetheContractpursuanttoGCCClause35.

28. Warranty

28.1 TheSupplierwarrantsthatalltheGoodsarenew,unused,andofthemostrecentorcurrentmodels,andthattheyincorporateallrecentimprovementsindesignandmaterials,unlessprovidedotherwiseintheContract.

28.2 SubjecttoGCCSub-Clause22.1(b),theSupplierfurtherwarrantsthattheGoodsshallbefreefromdefectsarisingfromanyactoromissionoftheSupplierorarisingfromdesign,materials,andworkmanship,undernormaluseintheconditionsprevailinginthecountryoffinaldestination.

28.3 Unlessotherwisespecifiedinthe**SCC,**thewarrantyshallremainvalidfortwelve(12)monthsaftertheGoods,oranyportionthereofasthecasemaybe,havebeendeliveredtoandacceptedatthefinaldestinationindicatedinthe**SCC,**orforeighteen(18)monthsafterthedateofshipmentfromtheportorplaceofloadinginthecountryoforigin,whicheverperiodconcludesearlier.

28.4 TheProcuringEntityshallgivenoticetotheSupplierstatingthenatureofanysuchdefectstogetherwithallavailableevidencethereof,promptlyfollowingthediscoverythereof.TheProcuringEntityshallaffordallreasonableopportunityfortheSuppliertoinspectsuchdefects.

28.5 Uponreceiptofsuchnotice,theSuppliershall,withintheperiodspecifiedinthe**SCC,**expeditiouslyrepairorreplacethedefectiveGoodsorpartsthereof,atnocosttotheProcuringEntity.

28.6 Ifhavingbeennotified,theSupplierfailstoremedythedefectwithintheperiodspecifiedinthe**SCC,**theProcuringEntitymayproceedtotakewithinareasonableperiodsuchremedialactionasmaybenecessary,attheSupplier'sriskandexpenseandwithoutprejudicetoanyotherrightswhichtheProcuringEntitymayhaveagainsttheSupplierundertheContract.

29. PatentIndemnity

29.1 TheSuppliershall,subjecttotheProcuringEntity'scompliancewithGCCSub-Clause29.2,indemnifyandholdharmlesstheProcuringEntityanditsemployeesandofficersfromandagainstanyandallsuits,actionsoradministrativeproceedings,claims,demands,losses,damages,costs,andexpensesofanynature,includingattorney'sfeesandexpenses,whichtheProcuringEntitymaysufferasaresultofanyinfringementorallegedinfringementofanypatent,utilitymodel,registereddesign,trademark,copyright,orotherintellectualpropertyrightregisteredorotherwiseexistingatthedateoftheContractbyreasonof:

a) theinstallationoftheGoodsbytheSupplierortheuseoftheGoodsinthecountrywheretheSiteislocated;and
b) thesaleinanycountryoftheproductsproducedbytheGoods.

SuchindemnityshallnotcoveranyuseoftheGoodsoranypartthereofotherthanforthepurposeindicatedbyorto bereasonablyinferredfromtheContract,neitheranyinfringementresultingfromtheuseoftheGoodsoranypart thereof,oranyproductsproducedtherebyinassociationorcombinationwithanyotherequipment,plant,ormate rialsnotsuppliedbytheSupplier,pursuanttotheContract.

29.2 IfanyproceedingsarebroughtoranyclaimismadeagainsttheProcuringEntityarisingoutofthemattersreferredtoin GCCSub-Clause29.1,theProcuringEntityshallpromptlygivetheSupplieranoticethereof,andtheSuppliermayatitsownexpe nseandintheProcuringEntity'snameconductsuchproceedingsorclaimandanynegotiationsforthesettlementofany suchproceedingsorclaim.

29.3 IftheSupplierfailstonotifytheProcuringEntitywithintwenty-eight(28)daysafterreceiptofsuchnoticethatitintendstoconductanysuchproceedingsorclaim,thentheProcuringE ntityshallbefreetoconductthesameonitsownbehalf.

29.4 TheProcuringEntityshall,attheSupplier'srequest,affordallavailableassistancetotheSupplierinconductingsuchp roceedingsorclaim,andshallbereimbursedbytheSupplierforallreasonableexpensesincurredinsodoing.

29.5 TheProcuringEntityshallindemnifyandholdharmlesstheSupplieranditsemployees,officers,andSubcontractorsf romandagainstanyandallsuits,actionsoradministrativeproceedings,claims,demands,losses,damages,costs,and expensesofanynature,includingattorney'sfeesandexpenses,whichtheSuppliermaysufferasaresultofanyinfringe mentorallegedinfringementofanypatent,utilitymodel,registereddesign,trademark,copyright,orotherintellectua lpropertyrightregisteredorotherwiseexistingatthedateoftheContractarisingoutoforinconnectionwithanydesign, data,drawing,specification,orotherdocumentsormaterialsprovidedordesignedbyoronbehalfoftheProcuringEnti ty.

30. LimitationofLiability

30.1 Exceptincasesofcriminalnegligenceorwillfulmisconduct,

a) theSuppliershallnotbeliabletotheProcuringEntity,whetherincontract,tort,orotherwise,foranyindirectorco nsequentiallossordamage,lossofuse,lossofproduction,orlossofprofitsorinterestcosts,providedthatthisexclusion shallnotapplytoanyobligationoftheSuppliertopayliquidateddamagestotheProcuringEntity,and

b) theaggregateliabilityoftheSuppliertotheProcuringEntity,whetherundertheContract,intortorotherwise,sha llnotexceedthetotalContractPrice,providedthatthislimitationshallnotapplytothecostofrepairingorreplacingdef ectiveequipment,ortoanyobligationofthesuppliertoindemnifytheProcuringEntitywithrespecttopatentinfringe ment.

31. ChangeinLawsandRegulations

31.1 UnlessotherwisespecifiedintheContract,ifafterthedateof30dayspriortodateofTendersubmission,anylaw,regula tion,ordinance,orderorbylawhavingtheforceoflawisenacted,promulgated,abrogated,orchangedinKenya(whic hshallbedeemedtoincludeanychangeininterpretationorapplicationbythecompetentauthorities)thatsubsequentl yaffectstheDeliveryDateand/ortheContractPrice,thensuchDeliveryDateand/orContractPriceshallbecorrespon dinglyincreasedordecreased,totheextentthattheSupplierhastherebybeenaffectedintheperformanceofanyofitso bligationsundertheContract.Notwithstandingtheforegoing,suchadditionalorreducedcostshallnotbeseparatelyp aidorcreditedifthesamehasalreadybeenaccountedforinthepriceadjustmentprovisionswhereapplicable,inaccord ancewithGCCClause15.

32. ForceMajeure

32.1 TheSuppliershallnotbeliableforforfeitureofitsPerformanceSecurity,liquidateddamages,orterminationfordefau ltifandtotheextentthatitsdelayinperformanceorotherfailuretoperformitsobligationsundertheContractistheresul tofaneventofForceMajeure.

32.2 ForpurposesofthisClause,"ForceMajeure"meansaneventorsituationbeyondthecontroloftheSupplierthatisnotfo reseeable,isunavoidable,anditsoriginisnotduetonegligenceorlackofcareonthepartoftheSupplier.Sucheventsma yinclude,butnotbelimitedto,actsoftheProcuringEntityinitssovereigncapacity,warsorrevolutions,fires,floods,ep idemics,quarantinerestrictions,andfreightembargoes.

32.3 IfaForceMajeuresituationarises,theSuppliershallpromptlynotifytheProcuringEntityinwritingofsuchconditiona ndthecausethereof.UnlessotherwisedirectedbytheProcuringEntityinwriting,theSuppliershallcontinuetoperfor mitsobligationsundertheContractasfarasisreasonablypractical,andshallseekallreasonablealternativemeansforp erformancenotpreventedbytheForceMajeureevent.

33. ChangeOrdersandContractAmendments

33.1 TheProcuringEntitymayatanytimeordertheSupplierthroughnoticeinaccordanceGCCClause8,tomakechanges withinthegeneralscopeoftheContractinanyoneormoreofthefollowing:

a) drawings,designs,orspecifications,whereGoodstobefurnishedundertheContractaretobespecificallymanuf acturedfortheProcuringEntity;

b) themethodofshipmentorpacking;

c) theplaceofdelivery;and

d) theRelatedServicestobeprovidedbytheSupplier.

33.2 Ifanysuchchangecausesanincreaseordecreaseinthecostof,orthetimerequiredfor,theSupplier'sperformanceofan yprovisionsundertheContract,anequitableadjustmentshallbemadeintheContractPriceorintheDelivery/Complet ionSchedule,orboth,andtheContractshallaccordinglybeamended.AnyclaimsbytheSupplierforadjustmentunder thisClausemustbeassertedwithintwenty-eight(28)daysfromthedateoftheSupplier'sreceiptoftheProcuringEntity'schangeorder.

33.3 PricestobechargedbytheSupplierforanyRelatedServicesthatmightbeneededbutwhichwerenotincludedintheCo ntractshallbeagreeduponinadvancebythepartiesandshallnotexceedtheprevailingrateschargedtootherpartiesbyt heSupplierforsimilarservices.

33.4 **ValueEngineering:**TheSuppliermayprepare,atitsowncost,avalueengineeringproposalatanytimeduringtheperf ormanceofthecontract.Thevalueengineeringproposalshall,ataminimum,includethefollowing;

a) theproposedchange(s),andadescriptionofthedifferencetotheexistingcontractrequirements;

b) afullcost/benefitanalysisoftheproposedchange(s)includingadescriptionandestimateofcosts(includinglife cyclecosts)theProcuringEntitymayincurinimplementingthevalueengineeringproposal;and

c) adescriptionofanyeffect(s)ofthechangeonperformance/functionality.

33.5 TheProcuringEntitymayacceptthevalueengineeringproposaliftheproposaldemonstratesbenefitsthat:

a) acceleratesthedeliveryperiod;or

b) reducestheContractPriceorthelifecyclecoststotheProcuringEntity;or

c) improvesthequality,efficiencyorsustainabilityoftheGoods;or

d) yieldsanyotherbenefitstotheProcuringEntity,withoutcompromisingthenecessaryfunctionsoftheFacilities.

33.6 Ifthevalueengineeringproposalisapprovedbytheprocuringentityandresultsin:

a) areductionoftheContractPrice;theamounttobepaidtotheSuppliershallbethepercentagespecified**intheSCC** ofthereductionintheContractPrice;or

b) anincreaseintheContractPrice;butresultsinareductioninlifecyclecostsduetoanybenefitdescribedin (a) to(d)above,theamounttobepaidtotheSuppliershallbethefullincreaseintheContractPrice.

33.7 Subjecttotheabove,novariationinormodificationofthetermsoftheContractshallbemadeexceptbywrittenamend mentsignedbytheparties.

34. Extensions of Time

34.1 IfatanytimeduringperformanceoftheContract,theSupplieroritssubcontractorsshouldencounterconditionsimpedingtimelydeliveryoftheGoodsorcompletionofRelatedServicespursuanttoGCCClause13,theSuppliershallpromptlynotifytheProcuringEntityinwritingofthedelay,itslikelyduration,anditscause.Assoonaspracticableafterreceiptof theSupplier'snotice,theProcuringEntityshallevaluatethesituationandmayatitsdiscretionextendtheSupplier'stimeforperformance,inwhichcasetheextensionshallberatifiedbythepartiesbyamendmentoftheContract.

34.2 ExceptincaseofForceMajeure,asprovidedunderGCCClause32,adelaybytheSupplierintheperformanceofitsDeliveryandCompletionobligationsshallrendertheSupplierliabletotheimpositionofliquidateddamagespursuanttoGCCClause26,unlessanextensionoftimeisagreedupon,pursuanttoGCCSub-Clause34.1.

7. Termination

35.1 TerminationforDefault

a) TheProcuringEntity,withoutprejudicetoanyotherremedyforbreachofContract,bywrittennoticeofdefaultsenttotheSupplier,mayterminatetheContractinwholeorinpart:
   i) iftheSupplierfailstodeliveranyoralloftheGoodswithintheperiodspecifiedintheContract,orwithinanyextensionthereofgrantedbytheProcuringEntitypursuanttoGCCClause34;
   ii) iftheSupplierfailstoperformanyotherobligationundertheContract;or
   iii) iftheSupplier,inthejudgmentoftheProcuringEntityhasengagedinFraudandCorruption,asdefinedinparagraph2.2aoftheAppendixtotheGCC,incompetingfororinexecutingtheContract.

b) IntheeventtheProcuringEntityterminatestheContractinwholeorinpart,pursuanttoGCCClause35.1(a),theProcuringEntitymayprocure,uponsuchtermsandinsuchmannerasitdeemsappropriate,GoodsorRelatedServicessimilartothoseundeliveredornotperformed,andtheSuppliershallbeliabletotheProcuringEntityforanyadditionalcostsforsuchsimilarGoodsorRelatedServices.However,theSuppliershallcontinueperformanceoftheContracttotheextentnotterminated.

35.2 TerminationforInsolvency.

TheProcuringEntitymayatanytimeterminatetheContractbygivingnoticetotheSupplieriftheSupplierbecomesbankruptorotherwiseinsolvent.Insuchevent,terminationwillbewithoutcompensationtotheSupplier,providedthatsuchterminationwillnotprejudiceoraffectanyrightofactionorremedythathasaccruedorwillaccruethereaftertotheProcuringEntity

35.2 TerminationforConvenience.

a) TheProcuringEntity,bynoticesenttotheSupplier,mayterminatetheContract,inwholeorinpart,atanytimefortsconvenience.ThenoticeofterminationshallspecifythatterminationisfortheprocuringEntity'sconvenience,theextenttowhichperformanceoftheSupplierundertheContractisterminated,andthedateuponwhichsuchterminationbecomeseffective.

b) TheGoodsthatarecompleteandreadyforshipmentwithintwenty-eight(28)daysaftertheSupplier'sreceiptofnoticeofterminationshallbeacceptedbytheProcuringEntityatthe Contracttermsandprices.FortheremainingGoods,theProcuringEntitymayelect:
   i) tohaveanyportioncompletedanddeliveredattheContracttermsandprices;and/or
   ii) tocanceltheremainderandpaytotheSupplieranagreedamountforpartiallycompletedGoodsandRelatedServicesandformaterialsandpartspreviouslyprocuredbytheSupplier.

8. Assignment

36.1 NeithertheProcuringEntitynortheSuppliershallassign,inwholeorinpart,theirobligationsunderthisContract,exceptwithpriorwrittenconsentoftheotherparty.

9. ExportRestriction

37.1 Notwithstandinganyobligationunderthecontracttocompleteallexportformalities,anyexportrestrictionsattributabletotheProcuringEntity,toKenya,ortotheuseoftheproducts/goods,systemsorservicestobesupplied,whicharisefromtraderegulationsfromacountrysupplyingthoseproducts/goods,systemsorservices,andwhichsubstantiallyimpedetheSupplierfrommeetingitsobligationsundertheContract,shallreleasetheSupplierfromtheobligationtoprovidedeliveriesorservices,alwaysprovided,however,thattheSuppliercandemonstratetothesatisfactionoftheProcuringEntitythatithascompletedallformalitiesinatimelymanner,includingapplyingforpermits,authorizationsandlicensesnecessaryfortheexportoftheproducts/goods,systemsorservicesunderthetermsoftheContract.TerminationoftheContractonthisbasisshallbefortheProcuringEntity'sconveniencepursuanttoSub-Clause35.3.

SECTIONVII-SPECIALCONDITIONSOFCONTRACT

ThefollowingSpecialConditionsofContract(SCC)shallsupplementand/oramendtheGeneralConditionsofContract(GCC).Whenever thereisaconflict,theprovisionshereinshallprevailoverthoseintheGCC.

[TheProcuringEntityshallselectinserttheappropriatewordingusingthesamplesbeloworotheracceptablewording,anddeletethetextinitalics].

GCC1.1(j)	The Procuring Entity is: *[Insert complete legal name of the Procuring Entity]*
GCC 28.3	The Final Destination(s) is/are: *[Insert name(s) and detailed informationon the location(s) of the site(s)]*
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties there under shall not be as prescribed by Incoterms, they shall be as prescribed by: *[exceptional; refer to other internationally accepted trade terms]*
GCC4.2(b)	The version edition of Incoterms shall be *INCOTERMS 2015*
GCC8.1	For **notices**, the Procuring Entity's address shall be: Attention: *[insert full name of person, if applicable]* Postal address (full postal address) Physical Address (fullLocation *insertcity,streetname,Buildingnamed floor number, room number)* Telephone: *[include telephone number, including country and city codes]* Electronic mail address*: [insert e-mail address, if applicable]*
GCC10.4.2	The place of arbitration shall be --(specify City and Country).
GCC13.1	Details of Shipping and other Documents to be furnished by the Supplier are *[insert the required documents, such as a negotiable bill of lading, a non-negotiable sea way bill, an airway bill, a railway consignment note, a road consignment note, insurance certificate, Manufacturer's or Supplier's warranty certificate, inspection certificate issued by nominated inspection agency, Supplier's factory shipping details etc.]*. The above documents shall be received by the Procuring Entity before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.
GCC15.1	The prices charged for the Goods supplied and therelatedServicesperformed*[insert "shall" or "shall not," as appropriate]* be adjustable. If prices are adjustable, the following method shall be used to calculate the price adjustment *[see attachment to these SCC for a sample Price Adjustment Formula]*

GCC16.1	***Sampleprovision*** GCC16.1- ThemethodandconditionsofpaymenttobemadetotheSupplierunderthisContractshallbeasfollows: **A.PaymentforGoodssuppliedfromabroad:** Paymentofforeigncurrencyportionshallbemadein*[insertcurrencyoftheContractPrice}* inthefollowingmanner: (i)**AdvancePayment:**Ten(10)percentoftheContractPriceshallbepaidwithinthirty (30)daysofsigningoftheContract,anduponsubmissionofclaimandabankguaranteeforequivalentamountvaliduntiltheGoodsaredeliveredand,intheform,providedintheTenderingdocumentoranotherformacceptabletotheProcuringEntity. (ii) **OnShipment:**Eighty(80)percentoftheContractPriceoftheGoodsshippedshallbepaidthroughirrevocableconfirmedletterofcreditopenedinfavouroftheSupplierinabankinitscountry,uponsubmissionofdocumentsspecifiedinGCCClause12. (iii) **OnAcceptance:**Ten(10)percentoftheContractPriceofGoodsreceivedshallbepaidwithinthirty(30)daysofreceiptoftheGoodsuponsubmissionofclaimsupportedbytheacceptancecertificateissuedbytheProcuringEntity. B. **Paymentoflocalcurrencyportionofaforeign<u>Suppliershallbemadein</u>**<u>Kenyashillings</u>withinthirty(30)daysofpresentationofclaimsupportedbyacertificatefromtheProcuringEntitydeclaringthattheGoodshavebeendeliveredandthatallothercontractedServiceshavebeenperformed. **C. PaymentforGoodsandServicessuppliedfromwithinKenya:** PaymentforGoodsandServicessuppliedfromwithinKenyashallbemadein *[currency],*asfollows: (i)**AdvancePayment:**Ten(10)percentoftheContractPriceshallbepaidwithinthirty (30)daysofsigningoftheContractagainstaninvoiceandabankguaranteefortheequivalentamountandintheformprovidedintheTenderingdocumentoranotherformacceptabletotheProcuringEntity. (ii) **OnDelivery:**Eighty(80)percentoftheContractPriceshallbepaidonreceiptoftheGoodsandupons ubmissionofthedocumentsspecifiedinGCCClause13.Thebankguaranteeshallthenbereleased. (iii) **OnAcceptance:**Theremainingten(10)percentoftheContractPriceshallbepaidtotheSupplierwithinthirty(30)daysafterthedateoftheacceptancecertificatefortherespectivedeliveryissuedbytheProcuringEntity.
GCC16.5	Thepayment-delayperiodafterwhichtheProcuringEntityshallpayinteresttothesuppliershallbe*[insertnumber]*days. Theinterestratethatshallbeappliedis*[insertnumber}*%
GCC18.1	APerformanceSecurity*[insert"shall"or"shallnot"berequired}* *[IfaPerformanceSecurity*is*required,insert"theamountofthePerformanceSecurityshallbe:[insertamount]* *[TheamountofthePerformanceSecurity*is*usuallyexpressedasapercentageoftheContractPrice.Thepercentagevariesaccordingtothe*ProcuringEntity*'sperceivedriskandimpactofnon-performancebytheSupplier.A10%percentage*is*usedundernormalcircumstances**]***
GCC18.3	lfrequired,thePerformanceSecurityshallbeintheformof:*[insert"aDemandGuarantee"or"aPerformanceBond"}* lfrequired,thePerformancesecurityshallbedenominatedin*[insert"afreelyconvertiblecurrencyacceptabletotheProcuringEntity"or"thecurrenciesofpaymentoftheContract,inaccordancewiththeirportionsoftheContractPrice"}*

GCC 18.4	Discharge of the Performance Security shall take place: *[insert date if different from the one indicated in sub clause GCC 18.4]*
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: *[insert in detail the type of packing required, the markings in the packing and all documentation required]*
GCC 24.1	The insurance coverage shall be as specified in the Incoterms. If not in accordance with Incoterms, insurance shall be as follows: *[insert specific insurance provisions agreed upon, including coverage, currency and amount]*
GCC 25.1	Responsibility for transportation of the Goods shall be as specified in the Incoterms. If not in accordance with Incoterms, responsibility for transportations shall be as follows: *[insert "The Supplier is required under the Contract to transport the Goods to a specified place of final destination within* Kenya, *defined as the Project Site, transport to such place of destination in* Kenya, *including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price"; or any other agreed upon trade terms (specify the respective responsibilities of the Procuring Entity and the Supplier)]*
GCC 25.2	Incidental services to be provided are: *[Selected services covered under GCC Clause 25.2 and/or other should be specified with the desired features. The price quoted in the Tender price or agreed with the selected Supplier shall be included in the Contract Price.]*
GCC 26.1	The inspections and tests shall be: *[insert nature, frequency, procedures for carrying out the inspections and tests]*
GCC 26.2	The Inspections and tests shall be conducted at: *[insert name(s) of location(s)]*
GCC 27.1	The liquidated damage shall be: *[insert number]* % per week
GCC 27.1	The maximum amount of liquidated damages shall be: *[insert number]* %
GCC 28.3	The period of validity of the Warranty shall be: *[insert number]* days For purposes of the Warranty, the place(s) of final destination(s) shall be: *[insert name(s) of location(s)]* ***Sample provision*** - GCC 28.3- In partial modification of the provisions, the warranty period shallbe__ hours ofoperationor____ months from date of acceptance of the Goodsor*(*)months from the date of shipment, whichever occurs earlier. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion,either: **(a)** make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with GCC 26.7,**or** (b) pay liquidated damages to the Procuring Entity with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be(). *[The rate should be higher than the adjustment rate used in the Tender evaluation under TDS 34.6(!)]*

GCC28.5, GCC28.6	Theperiodforrepairorreplacementshallbe:*[insertnumber(s)J*days.
GCC33.4	IfthevalueengineeringproposalisapprovedbytheProcuringEntitytheamounttobepaidtotheSupp liershallbe_% (insertappropriatepercentage. Thepercentageisnormallyupto50%)ofthereductionintheContractPrice.

SECTIONVIII-CONTRACTFORMS

ThisSectioncontainsformswhich,oncecompleted,willformpartoftheContract.TheformsforPerformanceSecurityandAdvancePaymentSecurity,whenrequired,shallonlybecompletedbythesuccessfultendereraftercontractaward.

FORMNo1: NOTIFICATION OF INTENTION TO AWARD

ThisNotificationofIntentiontoAwardshallbesenttoeachTendererthatsubmittedaTender.SendthisNotificationtotheTenderer'sAuthorizedRepresentativenamedintheTenderInformationFormontheformatbelow.

FORMAT

1. FortheattentionofTenderer'sAuthorizedRepresentative

   I) Name:_____*[insertAuthorizedRepresentative'sname]*

   ii) Address:_____*[insertAuthorizedRepresentative'sAddress]*

   iii) Telephone:_____*[insertAuthorizedRepresentative'stelephone/faxnumbers]*

   iv) EmailAddress:_____*[insertAuthorizedRepresentative'semailaddress]*

   [IMPORTANT:insertthedatethatthisNotificationistransmittedtoTenderers.TheNotificationmustbesenttoallTendererssimultaneously.Thismeansonthesamedateandasclosetothesametimeaspossible.]

2. Dateoftransmission:_____[*email*]on[*date*]_____(localtime)

   ThisNotificationissentby_____(*Nameanddesignation*)_____

3. NotificationofIntentiontoAward

   I) Employer:_____*[insertthenameoftheEmployer]*

   ii) Project:_____*[insertnameofproject]*

   iii) Contracttitle:_____*[insertthenameofthecontract]*

   iv) Country:_____*[insertcountrywhereITTisissued]*

   v) ITTNo:_____*[insertITTreferencenumberfromProcurementPlan]*

   ThisNotificationofIntentiontoAward(Notification)notifiesyouofourdecisiontoawardtheabovecontract.Thetransmissionofthis NotificationbeginstheStandstillPeriod.DuringtheStandstillPeriod,youmay:

4. Requestadebriefinginrelationtotheevaluationofyourtender

   SubmitaProcurement-relatedComplaintinrelationtothedecisiontoawardthecontract.

   a) Thesuccessfultenderer

      i) NameofsuccessfulTender_____

      ii) AddressofthesuccessfulTender_____

      iii) ContractpriceofthesuccessfulTenderKenyaShillings_____(inwords _____)

   b) OtherTenderers

   NamesofallTendersthatsubmittedaTender.IftheTender'spricewasevaluatedincludetheevaluatedpriceaswellastheTenderpriceasreadout.ForTendersnotevaluated,giveonemainreasontheTenderwasunsuccessful.

S/No	Name of Tender	Tender Price as readout	Tender's evaluated price (Note a)	One Reason Why Not Evaluated
1				
2				
3				
4				
5				

(Notea)StateNEifnotevaluated

5. Howtorequestadebriefing

a) DEADLINE:Thedeadlinetorequestadebriefingexpiresatmidnighton[*insertdate*](*localtime*).

b) YoumayrequestadebriefinginrelationtotheresultsoftheevaluationofyourTender.Ifyoudecidetorequestadebriefingyourwrittenrequestmustbemadewithinthree(5)BusinessDaysofreceiptofthisNotificationofIntentiontoAward.

c) Providethecontractname,referencenumber,nameoftheTenderer,contactdetails;andaddresstherequestfordebriefingasfollows:

I) Attention:_____[*insertfullnameofperson,ifapplicable*]

ii) Title/position:_____[*inserttitle/position*]

ii) Agency:_____[*insertnameofEmployer*]

iii) Emailaddress:_____[*insertemailaddress*]

d) Ifyourrequestforadebriefingisreceivedwithinthe3Daysdeadline,wewillprovidethedebriefingwithinfive(3)BusinessDaysofreceiptofyourrequest.Ifweareunabletoprovidethedebriefingwithinthisperiod,theStandstillPeriodshallbeextendedbyfive(3)Daysafterthedatethatthedebriefingisprovided.Ifthishappens,wewillnotifyyouandconfirmthedatethattheextendedStandstillPeriodwillend.

e) Thedebriefingmaybeinwriting,byphone,videoconferencecallorinperson.Weshallpromptlyadviseyouinwritinghowthedebriefingwilltakeplaceandconfirmthedateandtime.

f) Ifthedeadlinetorequestadebriefinghasexpired,youmaystillrequestadebriefing.Inthiscase,wewillprovidethedebriefingassoonaspracticable,andnormallynolaterthanfifteen(15)Daysfromthedateofpublicationofthe ContractAwardNotice.

6. Howtomakeacomplaint

a) Period:Procurement-relatedComplaintchallengingthedecisiontoawardshallbesubmittedbymidnight,[*insertdate*](localtime).

b) Providethecontractname,referencenumber,nameoftheTenderer,contactdetails;andaddresstheProcurement-relatedComplaintasfollows:

I) Attention:_____[*insertfullnameofperson,ifapplicable*]

ii) Title/position:_____[*inserttitle/position*]

iii) Agency:_____[*insertnameofEmployer*]

iv) Emailaddress:_____[*insertemailaddress*]

c) AtthispointintheprocurementprocessyoumaysubmitaProcurement-relatedComplaintchallengingthedecisiontoawardthecontract.Youdonotneedtohaverequested,orreceived,adebriefingbeforemakingthiscomplaint.Yourcomplaintmustbesubmittedwithin theStandstillPeriodandreceivedbyusbeforetheStandstillPeriodends.

d) Furtherinformation:ForfurtherinformationrefertothePublicProcurementandDisposalsAct2015anditsRegulationsavailablefromtheWebsitewww.ppra.go.keoremailcomplaints@ppra.go.ke.

Youshouldreadthesedocumentsbeforepreparingandsubmittingyourcomplaint.

e) Therearefouressentialrequirements:

i) Youmustbean'interestedparty'.Inthiscase,thatmeansaTendererwhosubmittedaTenderinthistenderingprocess,andistherecipientofaNotificationofIntentiontoAward.

ii) Thecomplaintcanonlychallengethedecisiontoawardthecontract.

iii) Youmustsubmitthecomplaintwithintheperiodstatedabove.

iv) Youmustinclude,inyourcomplaint,alloftheinformationrequiredtosupportyourcomplaint.

7. <u>StandstillPeriod</u>

i) DEADLINE:TheStandstillPeriodisduetoendatmidnighton[*insertdate*](localtime).

ii) TheStandstillPeriodlaststen(14)DaysafterthedateoftransmissionofthisNotificationofIntentiontoAward.

iii) TheStandstillPeriodmaybeextendedasstatedinparagraphSection5(d)above.

IfyouhaveanyquestionsregardingthisNotificationpleasedonothesitatetocontactus.

OnbehalfoftheEmployer:

Signature:

_____

Name: _____

_____

Title/position: _____

_____

Telephone: _____

_____

Email: _____

FORMNO2: NOTIFICATION OF AWARD – LETTER OF ACCEPTANCE

[letterheadpaperoftheEmployer]

_____*[date]*

To_____*[nameandaddressoftheContractor]*

ThisistonotifyyouthatyourTenderdated_____*[date]*forexecutionofthe _____*[nameoftheContractandidentificationnumber,asgiveninthe ContractData]*fortheAcceptedContractAmount _____*[amountinnumbersandwords][nameofcurrency]*,ascorrect edandmodifiedinaccordancewiththeInstructionstoTenderers,isherebyacceptedby_____ _____*(nameofEmployer)*.

YouarerequestedtofurnishthePerformanceSecuritywithin30daysinaccordancewiththeConditionsofContract,using,for thatpurpose,oneofthePerformanceSecurityFormsincludedinSectionVIII,ContractForms,oftheTenderDocument.

AuthorizedSignature:

_____

NameandTitleofSignatory:

_____

NameofEmployer:

_____

Attachment:*ContractAgreement:*_____

NOTIFICATIONOFAWARD-LETTEROFACCEPTANCE

[useletterheadpaperoftheProcuringEntity]

_____*[date]*

To:_____*[nameandaddressoftheSupplier]*

Subject:_____***NotificationofAwardContractNo.***.....

ThisistonotifyyouthatyourTenderdated_____***[insertdate]***forexecutionofthe _____***[insertnameofthecontractandidentificationnumber,asgivenintheSCC]***fortheAccepted ContractAmountof _____***[insertamountinnumbersandwordsandnameofcurrency]***,ascorrectedandmodifiedinacc ordancewiththeInstructionstotenderersisherebyacceptedbyourAgency.

YouarerequestedtofurnishthePerformanceSecuritywithin30daysinaccordancewiththeConditionsofContract,usingfort hatpurposetheofthePerformanceSecurityFormincludedinSectionX,ContractForms,oftheTenderingdocument.

AuthorizedSignature:

_____

NameandTitleofSignatory:

_____

NameofAgency:_____

Attachment:ContractAgreement

FORMNO3-CONTRACTAGREEMENT

[Thesuccessfultenderershallfillinthisforminaccordancewiththeinstructionsindicated]

THISAGREEMENTmadethe_____*[insert:**number**]*dayof_____
_____*[insert:**month**],[insert:**year**]*.BETWEEN(1)_____
_____*[insertcompletenameofProcuringEntity*andhavingitsprincipalplaceofbusinessat*[insert:addres sofProcuringEntity]*(hereinaftercalled"ProcuringEntity"),oftheonepart;and(2)
_____*[insertnameofSupplier**]***,acorporationincorporatedunderthelawsof*[insert:countryofSupplier**]***an dhavingitsprincipalplaceofbusinessat
_____*[insert:addressofSupplier]*(hereinaftercalled"theSupplier"),oftheotherpart.

3. WHEREAStheProcuringEntityinvitedTendersforcertainGoodsandancillaryservices,viz.,

   _____

   *[insertbriefdescriptionofGoodsandServices]*andhasacceptedaTenderbytheSupplierforthesupplyofthoseGoodsan dServices,theProcuringEntityandtheSupplieragreeasfollows:

   i) InthisAgreementwordsandexpressionsshallhavethesamemeaningsasare respectivelyassignedtothemintheContractdocumentsreferredto.

   ii) Thefollowingdocumentsshallbedeemedtoformandbereadandconstruedaspartofthis Agreement.ThisAgre ementshallprevailoverallothercontractdocuments.

      a) theLetterofAcceptance

      b) theLetterofTender

      c) theAddendaNos._____(ifany)

      d) SpecialConditionsofContract

      e) GeneralConditionsofContract

      f) theSpecification(includingScheduleofRequirementsandTechnicalSpecifications)

      g) thecompletedSchedules(includingPriceSchedules)

      h) anyotherdocumentlistedinGCCasformingpartoftheContract

   iii) Inconsiderationofthepaymentstobemadebytheprocuringentitytothesupplierasspecifiedinthis Agreement, theSupplierherebycovenantswiththeProcuringEntitytoprovidetheGoodsandServicesandtoremedydefects thereininconformityinallrespectswiththeprovisionsoftheContract.

4. TheProcuringEntityherebycovenantstopaytheSupplierinconsiderationoftheprovisionoftheGoodsandServicesa ndtheremedyingofdefectstherein,theContractPriceorsuchothersumasmaybecomepayableundertheprovisionsoft heContractatthetimesandinthemannerprescribedbytheContract.

5. INWITNESSwhereofthepartieshereto havecausedthisAgreementtobeexecutedinaccordancewiththelawsofKen yaontheday,monthandyearindicatedabove.

Forandonbehalfoftheprocuringentity

Signed:_____*[insertsignature]*

inthecapacityof

_____*[inserttitleorotherappropriatedesignation]*I

nthepresenceof_____

_____*[insertidentificationofofficialwitness]***Foran**

donbehalfofthesupplier

Signed:

_____ *[insertsignatureofauthorizedrepresentative(s)oftheSupplier]* in

thecapacityof_____

_____ *[inserttitleorotherappropriatedesignation]* inthepresenceof

_____ *[insertidentificationofofficialwitness]*

FORMNO.4-PERFORMANCESECURITY[Option1-UnconditionalDemandBankGuarantee]

[Guarantorletterhead]

Beneficiary:_____

_____*[insertnameandAddressof*Employer*]***Dat**

e:_____*[Insertdateofissue]*

Guarantor:_____***[****Insertnameandaddressofplaceofissue,unlessindicatedintheletterhead]*

1. Wehavebeeninformedthat _____(hereinafter called"theContractor")hasenteredintoContractNo._____dated _____with*(nameofEmployer)*_____ _____(theEmployerastheBeneficiary),fortheexecutionof _____(hereinaftercalled"theContract").

2. Furthermore,weunderstandthat,accordingtotheconditionsoftheContract,aperformanceguaranteeisrequired.

3. AttherequestoftheContractor,weasGuarantor,herebyirrevocablyundertaketopaytheBeneficiaryanysumorsumsnotexceedingintotalanamountof _____(*inwords*),[1]suchsumbeingpayableinthetypesandproportionsofcurrenciesinwhichtheContractPriceispayable,uponreceiptbyusoftheBeneficiary'scomplyingdemandsupportedbytheBeneficiary'sstatement,whetherinthedemanditselforinaseparatesigneddocumentaccompanyingoridentifyingthedemand,statingthattheApplicantisinbreachofitsobligation(s)undertheContract,withouttheBeneficiaryneedingtoproveortoshowgroundsforyourdemandorthesumspecifiedtherein.

4. Thisguaranteeshallexpire,nolaterthanthe….Dayof……,2...…[2],andanydemandforpaymentunderitmustbereceivedbyusattheofficeindicatedaboveonorbeforethatdate.

5. TheGuarantoragreestoaone-timeextensionofthisguaranteeforaperiodnottoexceed*[sixmonths][oneyear],*inresponsetotheBeneficiary'swrittenrequestforsuchextension,suchrequesttobepresentedtotheGuarantorbeforetheexpiryoftheguarantee."

_____

[NameofAuthorizedOfficial,signature(s)andseals/stamps]

FORMNo.5-PERFORMANCESECURITY[Option2–PerformanceBond]

Beneficiary:_____

_____*[insertnameandAddressof*Employer*]***Date:**

_____*[Insertdateofissue]*

PERFORMANCEBONDNo.:_____

Guarantor:_____*[Insertnameandaddressofplaceofissue,unlessindicatedintheletterhead]*

1. BythisBond_____asPrincipal(hereinaftercalled"theContractor")and_____ _____ _____]asSurety(hereinaftercalled"theSurety"),areheldandfirmlyboundunto _____]asObligee(hereinaftercalled"theEmployer")intheamountof _____forthepaymentofwhichsumwellandtrulytobemadeinthetypesandproportionsofcurrenciesinwhichth eContractPriceispayable,theContractorandtheSuretybindthemselves,their heirs,executors,administrators,succe ssorsandassigns,jointlyandseverally,firmlybythesepresents.

2. WHEREAStheContractorhasenteredintoawrittenAgreementwiththeEmployerdatedthe _____dayof,20_____,for _____inaccordancewiththedocuments,plans,specifications,andamendmentsthereto,whichtotheextentherei nprovidedfor,arebyreferencemadeparthereofandarehereinafterreferredtoastheContract.

3. NOW,THEREFORE,theConditionofthisObligationissuchthat,iftheContractorshallpromptlyandfaithfullyperfo rmthesaidContract(includinganyamendmentsthereto),thenthisobligationshallbenullandvoid;otherwise,itshallr emaininfullforceandeffect.WhenevertheContractorshallbe,anddeclaredbytheEmployertobe,indefaultunderthe Contract,theEmployerhavingperformedtheEmployer'sobligationsthereunder,theSuretymaypromptlyremedyth edefault,orshallpromptly:

    1) completetheContractinaccordancewithitstermsandconditions;or

    2) obtainatenderortendersfromqualifiedtenderersforsubmissiontotheEmployerforcompletingtheContractin accordancewithitstermsandconditions,andupondeterminationbytheEmployerandtheSuretyofthelowestre sponsiveTenderers,arrangeforaContractbetweensuchTenderer,andEmployerandmakeavailableasworkpr ogresses(eventhoughthereshouldbeadefaultorasuccessionofdefaultsundertheContractorContractsofcom pletionarrangedunderthisparagraph)sufficientfundstopaythecostofcompletionlesstheBalanceoftheContr actPrice;butnotexceeding,includingothercostsanddamagesforwhichtheSuretymaybeliablehereunder,the amountsetforthinthefirstparagraphhereof.Theterm"BalanceoftheContractPrice,"asusedinthisparagraph,s hallmeanthetotalamountpayablebyEmployertoContractorundertheContract,lesstheamountproperlypaidb yEmployertoContractor;or

    3) paytheEmployertheamountrequiredbyEmployertocompletetheContractinaccordancewithitstermsandcon ditionsuptoatotalnotexceedingtheamountofthisBond.

4. TheSuretyshallnotbeliableforagreatersumthanthespecifiedpenaltyofthisBond.

5. AnysuitunderthisBondmustbeinstitutedbeforetheexpirationofoneyearfromthedateoftheissuingoftheTaking-OverCertificate.Norightofactionshallaccrueonthis BondtoorfortheuseofanypersonorcorporationotherthantheE mployernamedhereinortheheirs,executors,administrators,successors,andassignsoftheEmployer.

6. Intestimonywhereof,theContractorhashereuntosethishandandaffixedhisseal,andtheSuretyhascausedthesepresen ntstobesealedwithhiscorporatesealdulyattestedbythesignatureofhislegalrepresentative,thisday_____of_____20 _____.

SIGNED ON_____on behalf of

By

_____inthecapacityofI

nthepresenceof

SIGNEDON_____onbehalfof

By

_____inthecapacityofI

nthepresenceof

FORMNO.6-ADVANCEPAYMENTSECURITY[DemandBankGuarantee]

[Guarantorletterhead]

Beneficiary:_____

_____*[InsertnameandAddressof*Employer*]***Date:**

_____*[Insertdateofissue]*

ADVANCEPAYMENTGUARANTEENo.:

_____*[Insertguaranteereferencenumber]***Guarantor:**

_____***[***Insertnameandaddressofplaceofissue,unlessindicatedintheletterhead]*

1. Wehavebeeninformedthat_____(hereinaftercalled"theContractor")hasenteredintoContractNo. _____*dated*_____withtheBeneficiary,fortheexecutionof _____(hereinaftercalled"theContract").

2. Furthermore,weunderstandthat,accordingtotheconditionsoftheContract,anadvancepaymentinthesum _____(*inwords*)istobemadeagainstanadvancepaymentguarantee.

3. AttherequestoftheContractor,weasGuarantor,herebyirrevocablyundertaketopaytheBeneficiaryanysumorsums notexceedingintotalanamountof_____(*inwords* _____)[1]uponreceiptbyusoftheBeneficiary'scomplyingdemandsupportedbytheBeneficiary'sstatement,whetherinthedemanditselforinaseparatesigneddocumentaccompanyingoridentifyingthedemand,statingeitherthattheApplicant:

   a) hasusedtheadvancepaymentforpurposesotherthanthecostsofmobilizationinrespectofthegoods;or

   b) hasfailedtorepaytheadvancepaymentinaccordancewiththeContractconditions,specifyingtheamountwhichtheApplicanthasfailedtorepay.

4. AdemandunderthisguaranteemaybepresentedasfromthepresentationtotheGuarantorofacertificatefromtheBeneficiary'sbankstatingthattheadvancepaymentreferredtoabovehasbeencreditedtotheContractoronitsaccountnumber_____at_____

5. Themaximumamountofthisguaranteeshallbeprogressivelyreducedbytheamountoftheadvancepaymentrepaidby theContractorasspecifiedincopiesofinterimstatementsorpaymentcertificateswhichshallbepresentedtous.Thisguaranteeshallexpire,atthelatest,uponourreceiptofacopyoftheinterimpaymentcertificateindicatingthatninety(90)percentoftheAcceptedContractAmount,lessprovisionalsums,hasbeen certifiedforpayment,oronthe_____dayof_____,2____,[2]whicheverisearlier. Consequently,anydemandforpaymentunderthisguaranteemustbereceivedbyusatthisofficeonorbeforethatdate.

6. TheGuarantoragreestoaone-timeextensionofthisguaranteeforaperiodnottoexceed*[sixmonths][oneyear],*inresponsetotheBeneficiary'swritten_____requestforsuchextension,suchrequesttobepresentedtotheGuarantorbeforetheexpiryoftheguarantee.

[NameofAuthorizedOfficial,signature(s)andseals/stamps]