RFx No. 1000003363

TENDER NO. KP1/9A.2/OT/024/ADM/26-27
FOR PROCUREMENT OF AIR CONDITIONING (AC) UNITS AND CEILING FANS , INSTALLATION, TESTING & COMMISSIONING FOR VARIOUS COMPANY FACILITIES

NOVEMBER 17th 2026

ALL TENDERERS ARE ADVISED TO READ CAREFULLY THIS TENDER DOCUMENT IN ITS ENTIRETY BEFORE SUBMITTING ANY BID

STANDARD TENDER DOCUMENT FOR PROCUREMENT OF SUPPLY AND INSTALLATION OF PLANT AND EQUIPMENT
(E-PROCUREMENT OPEN TENDER SYSTEM)

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INVITATION TO TENDER

DATE:17th November 2026

TENDER NO: KP1/9A.2/OT/024/ADM/26-27

NAME: PROCUREMENT OF AIR CONDITIONING (AC) UNITS AND CEILING FANS , INSTALLATION, TESTING & COMMISSIONING FOR VARIOUS COMPANY FACILITIES

1.1 **Introduction.**

The Kenya Power & Lighting Company Plc (KPLC) invites bids from eligible Tenderers for **Procurement Of Air Conditioning (AC) Units and Ceiling Fans , Installation, Testing & Commissioning for various Company Facilities.** Interested Eligible Tenderers may obtain further information from the General Manager- Supply Chain, The Kenya Power & Lighting Company Plc at Stima Plaza, 3rd Floor, Kolobot Road, P.O. Box 30099 – 00100 Nairobi, Kenya.

1.2 **Obtaining tender documents.**

1.2.1 Tender documents detailing the requirements may be obtained from the KPLC's E- Procurement Portal - RFx No. 1000003363

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

1.3 **Submission of Tender documents**

Completed Tenders are to be submitted in electronic format on the KPLC's E-procurement portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted **ONLINE** on or before the submission date and time indicated on the **KPLC tendering portal.**

1.4 **Tender Closing Date and Time**

Tender closing date and time will be 4th December 2026 at 10.00 a.m .

1.5 **Prices**

Offered Price should be inclusive of all taxes, duties, levies and delivery costs to the premises (where applicable) of KPLC or other specified site must be in Kenya Shillings or a freely convertible currency in Kenya and shall remain valid for **One hundred and eighty (180) days** from the closing date of the tender. ***Please note that prices indicated on the KPLC tendering portal should be exclusive of VAT.***

1.6 Opening of submitted Tenders

Tenders will be opened promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend at Stima Plaza, Auditorium. All health protocols during opening ***must*** be observed and ***only one representative*** will be allowed in opening venue.

1.7 **Pre-bid Meeting**

There will be a pre-bid meeting to be held at Kenya Power's premises, Stima Plaza, Auditorium, Kolobot Road, Nairobi, Kenya **at 11:00 am on Thursday 19th November, 2026.**

TENDER SUBMISSION CHECKLIST

No.	Item	Tick Where Provided
1	Tender Security – Bank Guarantee or Letters of Credit (issued by Banks Licensed by the Central Bank of Kenya), Guarantee by a deposit taking Microfinance Institution, Sacco Society, the Youth Enterprise Development Fund or the Women Enterprise Fund.	
2	Duly completed Tender Forms	
3	Copy of Company or Firm's Registration Certificate	
4*	Copy of PIN Certificate	
5*	Copy of Valid Tax Compliance Certificate	
6	Confidential Business Questionnaire (CBQ)	
7*	Certificate of Confirmation of Directors and Shareholding (C.R.12) for registered companies and if not a registered company registration of business name for those trading as a sole proprietor or a registration of partnership deed registered under the Kenyan law	
8	Names with full contact as well as physical addresses of previous customers of similar goods and reference letters from at least four (4) previous customers	
9	Statement on Deviations	
10	Bill of Quantities	
11	Guaranteed Technical Particulars	
12	Registration with the National Construction Authority with a valid Practicing license NCA 1- NCA 4 in Mechanical category (Refrigeration & Air conditioning), and NCA 1 - NCA 7 Electrical Category	
13	For goods manufactured outside Kenya, applicable relevant ISO standard valid certification or for Goods manufactured in Kenya - valid KEBS Mark of Quality Certificate and / or KEBS Standardization Mark Certificate	
14	Submission of Relevant Manufacturer's or Principal's Authorization	
15	Financial Statements. The audited financial statements required must be those that are reported within eighteen (18) calendar months of the date of the tender document. *(For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original).*	
16	Any other document or item required by the Tender Document as stated in SECTION III - EVALUATION CRITERIA	

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

***NOTES TO TENDERERS**

1. Valid Tax Compliance Certificate shall be one issued by the relevant tax authorities and valid for at least up to the tender closing date. All Kenyan registered Tenderers must provide a valid Tax Compliance Certificate.

2. All Kenyan registered Tenderers must provide the Personal Identification Number Certificate (PIN Certificate).

3. Foreign Tenderers must provide equivalent documents to Tax Compliance and PIN certificates from their country of origin OR statements certifying that the equivalent documentation is not issued in the Tenderer's country of origin. Such Statement(s) shall be original and issued by the Tax authorities in the Tenderer's country of origin.

PART 1 - TENDERING PROCEDURES

SECTION I - INSTRUCTIONS TO TENDERERS

A. General

1. Scope of Tender

1.1 This tendering document is for the delivery of Maintenance Services, as specified in Section V, KPLC's Requirements. The name, identification and number of lots (contracts) of this ITT procurement are specified in the **TDS**.

2. Definitions

2.1 Throughout this tendering document:

a) the term "in writing" 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 KPLC) with proof of receipt;

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

c) "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of KPLC. It excludes KPLC's official public holidays.

2.2 The successful Tenderer will be expected to complete the performance of the Services by the Intended Completion Date provided in the contract.

3. Fraud and Corruption

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

3.2 KPLC requires compliance with the provisions of the Competition Act2 010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

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

3.4 Unfair Competitive Advantage – Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific

assignment do not derive a competitive advantage from having provided consulting services related to the contract being tendered for. KPLC shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. KPLC shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. KPLC shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

3.5 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit KPLC to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by KPLC.

4. Eligible Tenderers

4.1 A Tenderer may be a firm that is a private entity, a state-owned entity or institution subject to ITT 4.6, or any combination of such entities in the form of an association or subcontracting arrangement or a Joint Venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS.**

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

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

a) Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or

b) Receives or has received any direct or indirect subsidy from another Tenderer; or

c) Has the same legal representative as another Tenderer; or

d) Has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the

Tender of another Tenderer, or influence the decisions of KPLC regarding this Tendering process; or

e) Or any of its affiliates participated as a consultant in the preparation of KPLC's Requirements (including Activities Schedules, Performance Specifications and Drawings) for the Maintenance services that are the subject of the Tender; or

f) Or any of its affiliates has been hired (or is proposed to be hired) by KPLC or KPLC for the Contract implementation; or

g) Would be providing goods, works, or maintenance services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the **TDS** ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or

h) Has a close business or family relationship with a professional staff of KPLC or of the project implementing agency, who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the contract, and/or the Tender evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to KPLC throughout the procurement process and execution of the Contract.

4.4 A firm that is a Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative Tenders. This includes participation as a subcontractor. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a Tenderer or a JV member, may participate as a sub-contractor in more than one Tender.

4.5 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

4.6 A Tenderer that has been sanctioned by PPRA or are under a temporary suspension or a debarment imposed by any other entity of the Government of Kenya, shall be ineligible to be prequalified for, initially selected for, tender for, propose for, or be awarded a contract during such period of sanctioning. The list of debarred firms and individuals is available at the electronic address info@ppra.go.ke .

4.7 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish that they: (i) are legally and financially autonomous; (ii) operate under

commercial law; and (iii) are not under supervision of KPLC.

4.8 A Tenderer under suspension from tendering as the result of the operation of a Tender-Securing Declaration or Proposal-Securing Declaration shall not be eligible to tender.

4.9 Firms and individuals may be ineligible if (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

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

4.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

4.12 The Procuring Entity may require tenderers to be registered with certain authorities in Kenya. Such registration shall be defined in the **TDS**, but care must be taken to ensure such registration requirement does not discourage competition, nor exclude competent tenderers. Registration shall not be a condition for tender, but where a selected tenderer is not so registered, the tenderer shall be given opportunity to register before signature of contract.

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

4.14 A Tenderer may be considered ineligible if he/she offers goods, works and production processes with characteristics that have been declared by the

relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5. Qualification of the Tenderer

5.1 All Tenderers shall provide in Section IV, Tendering Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.

5.2 In the event that prequalification of Tenderers has been undertaken as stated in ITT 18.4, the provisions on qualifications of the Section III, Evaluation and Qualification Criteria shall not apply.

B. Contents of Tendering Document

6. Sections of Tendering Document

6.1 The tendering document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITT 9.

PART 1: Tendering Procedures

i) Section I-Instructions to Tenderers (ITT)
ii) Section II-Tender Data Sheet (TDS)
iii) Section III-Evaluation and Qualification Criteria

iv) Section IV – Tendering Forms

PART 2: KPLC's Requirements

v) Section V- KPLC's Requirements

PART 3: Contract

vi) Section VI- General Conditions of Contract (GCC)
vii) Section VII- Special Conditions of Contract (SCC)
viii) Section VIII- Contract Forms

6.2 The Invitation to Tender (ITT) or the notice to prequalify Tenderers, as the case may be, issued by KPLC is not part of this tendering document.

6.3 Unless obtained directly from KPLC, KPLC is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 9. In case of any contradiction, documents obtained directly from KPLC shall prevail.

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

7. Site Visit

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

8. Pre-Tender Meeting and a pre-arranged pretender visit of the site of the works

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

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

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

8.4 KPLC shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by KPLC exclusively through the issue of an Addendum pursuant to ITT 10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9. Clarification of Tender Documents

9.1 A Tenderer requiring any clarification of the Tender Document shall contact KPLC in writing at KPLC's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting and the pre-arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. KPLC 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. KPLC shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, KPLC 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, KPLC shall amend the Tender Documents appropriately following the procedure under ITT 10.

10. Amendment of Tendering Document

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

10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from KPLC in accordance with ITT 6.3. KPLC shall also promptly publish the addendum on KPLC's webpage in accordance with ITT 8.1.

10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, KPLC shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 24.2 below.

C. Preparation of Tenders

11. Cost of Tendering

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

12. Language of Tender

12.1 The Tender as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and KPLC shall be written in the English language. Supporting documents and printed literature that are part of the Tender maybe 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.

13. Documents Comprising the Tender

13.1 The Tender shall comprise the following:

a) **Form of Tender** prepared in accordance with ITT 14;

b) **Schedules:** Schedules or Requirements and priced Activity Schedule completed in accordance with ITT 14 and ITT 16;

c) **Tender Security** in accordance with ITT 21.1;

d) **Alternative Tender**: if permissible in accordance with ITT 15;

e) **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;

f) **Qualifications:** documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;

g) **Tenderer's Eligibility**: documentary evidence in accordance with ITT 19 establishing the Tenderer's eligibility to Tender;

h) **Conformity**: documentary evidence in accordance with ITT 18, that the Services conform to the tendering document; and

i) Any other document required **in the TDS.**

13.2 In addition to the requirements under ITT 12.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.

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

14. Form of Tender and Activity Schedule

14.1 The Form of Tender and priced Activity Schedule shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 21.3. All blank spaces shall be filled in with the information requested.

15. Alternative Tenders

15.1 Unless otherwise indicated in the TDS, alternative Tenders shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the Most Advantageous Tenderer shall be considered by KPLC.

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

15.3 When specified in the TDS, Tenderers are permitted to submit alternative technical solutions for specified parts of the Services, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VII, KPLC's Requirements.

16. Tender Prices and Discounts

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

16.2 All lots (contracts) and items must be listed and priced separately in the Price Schedule(s).

16.3 The Contract shall be for the Services, as described in Appendix A to the Contract and in the Specifications (or Terms of Reference), based on the priced Schedule, submitted by the Tenderer.

16.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender in accordance with ITT 13.1.

16.5 The Tenderer shall fill in rates and prices for all items of the Services described in the in Specifications (or Terms of Reference), and listed in the Activity Schedule in Section VII, KPLC's Requirements. Items for which no rate or price is entered by the Tenderer will not be paid for by KPLC when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.

16.6 All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the total Tender price submitted by the Tenderer.

16.7 If provided for in the TDS, the rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Special Conditions of Contract and of the General Conditions of Contract.

16.8 For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Tenderer in the form of Appendices D and E to the Contract.

17. Currencies of Tender and Payment

17 The currency of the Tender and the currency of payments shall be Kenya Shillings.

18. Documents Establishing Conformity of Services

18.1 To establish the conformity of the Maintenance services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that Services provided conform to the technical specifications and standards specified in Section VII, KPLC's Requirements.

18.2 Standards for provision of the Maintenance services are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality provided that it demonstrates, to KPLC's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, KPLC's Requirements.

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

19.1 Tenderers shall complete the Form of Tender and all the Tendering Forms included in Section IV to establish their eligibility in accordance with ITT 4.

19.2 The documentary evidence of the Tenderer's qualifications to perform the Contract

if its Tender is accepted shall establish to KPLC's satisfaction that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

19.3 In the event that prequalification of Tenderers has been undertaken as stated in the **TDS**, only Tenders from prequalified Tenderers shall be considered for award of Contract. The prequalified Tenderers should submit with their Tenders any information updating their original prequalification applications or, alternatively, confirm in their Tenders that the originally submitted prequalification information remains essentially correct as of the date of Tender submission.

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

19.5 The purpose of the information described in ITT 18.1 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by KPLC as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

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

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

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

19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by KPLC (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

i) If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,

ii) If the contract has been awarded to that tenderer, the contract award will be set aside,

iii) The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other person shave committed any criminal offence.

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

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

20. Period of Validity of Tenders

20.1 Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline date (as prescribed by KPLC in accordance with ITT 23.1). A Tender valid for a shorter period shall be rejected by KPLC as non-responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, KPLC may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 20, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 19.3.

21. Tender Security

21.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender security, as specified in the TDS, in original form and, in the case of a Tender Security, in the amount and currency specified in the TDS.

21.2 If a Tender Security is specified pursuant to ITT 20.1, from a reputable source, and an eligible country and shall be in any of the following forms at the Tenderer's option:

i) cash;
ii) a bank guarantee;
iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
iv) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,

21.3 If a Tender Security is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by

KPLC as non-responsive.

21.4 If a Tender Security is specified pursuant to ITT 20.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the contract and furnishing the Performance Security pursuant to ITT 46.

21.5 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security. The Procurement Entity shall also return tender security to the tenderers where;

a). The procurement proceedings are terminated

b). All tenders were determined non-responsive and

c). Where a bidder decline to extent the tender validity period.

21.6 The Tender Security may be forfeited executed:

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

b) if the successful Tenderer fails to:

i) sign the Contract in accordance with ITT 45; or

ii) furnish a performance security in accordance with ITT 46.

21.7 The Tender Security of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender security shall be in the names of all future members as named in the Form of intent referred to in ITT 4.1 and ITT 12.2.

21.8 If a Tender Security is not required in the **TDS**, pursuant to ITT 20.1, and

a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender; or

b) if the successful Tenderer fails to:

i) sign the Contract in accordance with ITT 45; or

ii) furnish a performance security in accordance with ITT 46;

KPLC may**,** if provided for **in the TDS**, declare the Tenderer ineligible to be awarded a contract by KPLC for a period of time as stated **in the TDS**.

22. Format and Signing of Tender

22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 12, bound with the volume containing the Form of Tender, and clearly marked “Original.” In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS**, and clearly marked as “Copies.” In the event of discrepancy between them, the original shall prevail.

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

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

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

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

D. Submission and Opening of Tenders

23. Sealing and Marking of Tenders

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

- in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and
- in an envelope or package or container marked "COPIES", all required copies of the Tender; and
- if alternative Tenders are permitted in accordance with ITT 13, and if relevant:

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

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

23.2 The inner envelopes or packages or containers shall:

a) bear the name and address of KPLC.

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

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

23.3 If an envelope or package or container is not sealed and marked as required,

KPLC will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will be rejected.

24. Deadline for Submission of Tenders

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

25 KPLC may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 9, in which case all rights and obligations of KPLC and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Tenders

25.1 KPLC shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 23. Any Tender received by KPLC after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

26. Withdrawal, Substitution and Modification of Tenders

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

26.2 prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and

26.3 received by KPLC prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.

26.4 Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.

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

27. Tender Opening

27.1 Except as in the cases specified in ITT 23 and ITT 25.2, KPLC shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives and anyone who choose to attend. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 23.1, shall be as specified **in the TDS.**

27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

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

27.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.

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

27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further. The Form of Tender and the priced Activity Schedule are to be initialed by representatives of KPLC attending Tender opening in the manner specified in the **TDS**.

27.7 KPLC shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 24.1).

27.8 KPLC shall prepare a record of the Tender opening that shall include, as a minimum:

a) The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
b) The Tender Price, per lot (contract) if applicable, including any discounts; and
c) Any alternative Tenders;
d) The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.

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

E. Evaluation and Comparison of Tenders

28. Confidentiality

28.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not

officially concerned with the Tendering process until information on the Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 41.

22.2 Any effort by a Tenderer to influence KPLC in the evaluation or contract award decisions may result in the rejection of its Tender.

28.3Notwithstanding ITT 27.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact KPLC on any matter related to the Tendering process, it should do so in writing.

29 Clarification of Tenders

29.1 To assist in the examination, evaluation, and comparison of Tenders, and qualification of the Tenderers, KPLC may, at KPLC's discretion, ask any Tenderer for clarification of its Tender including breakdowns of the prices in the Activity Schedule, and other information that KPLC may require. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by KPLC shall not be considered. KPLC's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by KPLC in the evaluation of the Tenders, in accordance with ITT 32.

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

30 Deviations, Reservations, and Omissions

31.1 During the evaluation of Tenders, the following definitions apply:

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

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

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

31. Determination of Responsiveness

31.1KPLC's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 12.

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

a) If accepted, would:

i) Affect in any substantial way the scope, quality, or performance of the Maintenance services specified in the Contract; or

ii) Limit in any substantial way, inconsistent with the tendering document, KPLC's rights or the Tenderer's obligations under the

Contract; or

b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

31.2 KPLC shall examine the technical aspects of the Tender submitted in accordance with ITT 17 and ITT18, in particular, to confirm that all requirements of Section VII, KPLC's Requirements have been met without any material deviation or reservation, or omission.

31.3 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by KPLC and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. Non-conformities, Errors and Omissions

31.4 Provided that a Tender is substantially responsive, KPLC may waive any non-conformities in the Tender.

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

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

32. Arithmetical Errors

32.1 Corrected tender prices shall not be used in the evaluation of tenders, comparison of tender prices.

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

32.3 Provided that the Tender is substantially responsive, KPLC shall handle errors on the following basis:

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) If there is a discrepancy between words and figures, the amount in words shall prevail,

33. Conversion to Single Currency

33.1 For evaluation and comparison purposes, conversion of the currency (ies) of to a single currency preference shall not apply.

34. Margin of Preference

34.1 Margin of preference on local service providers may be allowed if it is deemed that the services require participation of foreign tenderers. If so allowed, it will be indicated in the **TDS.**

34.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the **TDS**, a KPLC shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to the specified group are eligible to tender as specified in the **TDS**. Otherwise if not so stated, the invitation will be open to all tenderers.

35. Evaluation of Tenders

35.1 KPLC shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, KPLC shall determine the Most Advantageous Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:

a) Substantially responsive to the tendering document; and

b) The lowest evaluated cost.

35.2 In evaluating the Tenders, KPLC will determine for each Tender the evaluated Tender cost by adjusting the Tender price as follows:

a) Price adjustment due to discounts offered in accordance with ITT 15.4;

b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33;

c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 31.3;

d) The additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.

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

35.4 In the case of multiple contracts or lots, Tenderers are allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost

of the lot (contract) and for combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.

36. Comparison of Tenders

36.1 KPLC shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 35.2 to determine the Tender that has the lowest evaluated cost.

37. Abnormally Low Tenders and

Abnormally High Tenders

Abnormally Low Tenders

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

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

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

Abnormally High Tenders

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

37.5 In case of an abnormally high tenders, the Procurement Entity should (a) review the specifications, and conditions of tender, or correctness of the estimate or (b) possibility of a collusion, formation of cartels, or other form of fraudulent and corrupt activity in the tendering processor (c) perception of the firms on the credibility of KPLC. KPLC shall treat abnormally low and high tenders in accordance with procedures provided for in this tender document

37.6 If KPLC determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (often due to collusion, corruption or other manipulations), KPLC shall reject all Tenders and shall institute or cause competent Government Agencies to institute an

investigation on the cause of the compromise, before retendering.

38. Unbalanced and/or Front-Loaded Tenders

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

38.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, KPLC may as appropriate:

a) Accept the Tender; or
b) Require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or
c) agree on a payment mode that eliminates the inherent risk of KPLC paying too much for undelivered works; or
d) reject the Tender.

39. Qualification of the Tenderer

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

39.1 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT18. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Tenderer that submitted the Tender.

39.2 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event KPLC shall proceed to theTendererwhooffersasubstantiallyresponsiveTenderwiththenextlowestevaluatedcosttomakeasimilar determination of that Tenderer's qualifications to perform satisfactorily.

40 KPLC's Right to Accept Any Tender, and to Reject Any or All Tenders

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

F. Award of Contract

41 Award Criteria

41.1 KPLC shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

42. Notice of Intention to enter into a Contract/Notification of award

42.1 Upon award of the contract and Prior to the expiry of the Tender Validity Period KPLC shall issue a Notification of Intention to Enter in to a Contract/Notification of award to all tenderers which shall contain, at a minimum, the following information:

a) The name and address of the Tenderer submitting the successful tender;

b) The Contract price of the successful tender;

c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;

d) the expiry date of the Stand still Period; and

e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

43. Standstill Period

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

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

44. Debriefing by KPLC

44.1 On receipt of KPLC's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to KPLC for a debriefing on specific issues or concerns regarding their tender. KPLC shall provide the debriefing within five days of receipt of the request. .2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

45. Letter of Award

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

46. Signing of Contract

46.1 Upon the expiry of the fourteen days of the Notification of Intention to enter

into contract and upon the parties meeting their respective statutory requirements, KPLC shall send the successful Tenderer the Contract Agreement.

46.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to KPLC.

46.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.

47. Performance Security

47.1 Within twenty-one (21) days of the receipt of the Form of Acceptance from KPLC, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 3.9, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another Form acceptable to KPLC. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to KPLC. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless KPLC has agreed in writing that a correspondent financial institution is not required.

47.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event KPLC may award the Contract to the Tenderer offering the next Most Advantageous Tender.

48. Publication of Procurement Contract

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

a) Name and address of KPLC;

b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;

c) the name of the successful Tenderer, the final total contract price, the contract duration.

d) Dates of signature, commencement and completion of contract;

e) Names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

49. Adjudicator

49.1 KPLC proposes the person named **in the TDS** to be appointed as Adjudicator under the Contract, at an hourly fee specified **in the TDS**, plus reimbursable expenses. If the Tenderer disagrees with the proposed Adjudicator, the Tenderer should so state in the Tender. If, in the Form of Acceptance, KPLC has not agreed on the appointment of the Adjudicator, the Adjudicator shall be

appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.

50. Procurement Related Complaints and Administrative Review

50.1 The procedures for making a Procurement-related Complaint areas specified in the **TDS.**

50.2 A request for administrative review shall be made in the form provided under contract form

SECTION II - TENDER DATA SHEET (TDS)

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

Reference to ITC Clause	**PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS**
ITT Reference	**A. General**
ITT 1.1	The reference number of the Request for Tenders (ITT) is: **KP1/9A.2/OT/024/ADM/26-27** The Procuring Entity is: **Kenya Power and Lighting Company PLC** The name of the Tender is: **Procurement Of Air Conditioning (AC) Units and Ceiling Fans , Installation, Testing & Commissioning for various Company Facilities.** **This contract will comprises of 2 Lots as listed below:** **Lot 1** a. Coast **Lot 2** a. North Eastern b. North Rift C. South Nyanza d. Central Rift e. West Kenya f. Central Office g. IESR h. Stima Club
ITT 2.1 (a)	**Electronic –Procurement System** KPLC shall use the following electronic-procurement system to manage this Tendering process: **SAP Tendering Portal on www.kplc.co.ke (NB: Bidders are required to log on and register via this link to be able to participate in this tender)** The electronic-procurement system shall be used to manage the following aspects of the Tendering process: ***(Issuing Tendering Documents, Submission of Tenders, Opening of Tenders)*** *Proof of receipt will be done via the bidders* ***Submitted Response Number*** *for RFX 1000003363*
ITT 2.2	The Intended Completion Date is – Twenty Four (24) months from date of commencement
ITT 4.1	Joint Venture will not be applicable for this tender

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 4.10	Foreign Tenderers will not be applicable for this tender
ITT 4.12	Tenderers to be registered with NCA 1 or NCA 2 or NCA 3 or NCA 4 in Mechanical category (Refrigeration & Air conditioning), and NCA 1 or NCA 2 or NCA 3 or NCA 4 or NCA 5 or NCA 6 or NCA 7 Electrical Category
	B. Contents of Tendering Document
ITT 7.1	A site visit will **not to be held** for this tender.
ITT 8.1	A Pre-bid meeting shall be held on **19th November 2026** at the Stima Plaza, Kolobot Road, Auditorium at 11:00am**.**
ITT 9.1	For **Clarification of Tender purposes** only, KPLC's address is: *General Manager, Supply Chain & Logistics,* The Kenya Power and Lighting Company PLC, Stima Plaza, 3rd Floor Kolobot Road, Parklands P.O Box 30099 – 00100 Nairobi, Kenya Telephone: *+254-20-3201821* Electronic mail address: ***procurement@kplc.co.ke*** Requests for clarification should be received by KPLC no later than: **7 (Seven) Days before *tender closing date.*** Web page: ***www.kplc.co.ke***
ITT 9.1	KPLC will respond to request for clarification in Seven(7) working days and shall publish its response at the website www.kplc.co.ke.
	C. Preparation of Tenders
ITT 13.1(e)	The written confirmation of authorization to sign on behalf of the tenderer shall consist of; A company resolution in case of a Director signing (not applicable where the company has got only one director, or where all Directors have signed) (b)Power of attorney where a person other than the director signing accompanied by a company resolution.
ITT 13.1 (i)	The Tenderer shall submit any additional documents in its Tender as stated in Section III Evaluation criteria
ITT 13.3	Price quoted shall be inclusive of a 0.03% Public Procurement Capacity Building Levy Order, 2023 of the contract value exclusive of VAT. The Levy shall be deducted from the suppliers payment during contract implementation and remitted to PPRA as stipulated in the Public Procurement Capacity Building Levy order 2023 effective for

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	all tenders published after 1st September 2024.
ITT 15	Alternative Tenders **shall not** be considered.
ITT 19.3	Prequalification ***has not*** been undertaken.
ITT 20.1	Tender shall remain valid for **One Hundred and Eighty (180) days** after date of tender opening. A tender valid for shorter period shall be rejected.
ITT 21.1	A Tender Security shall b***e*** required at **Kshs. 800,000.00, Eight Hundred Thousand Kenya Shillings** valid for **210 days** after the date of Bid submission. The tender security shall be required in form of bank guarantee or a Guarantee used by a Financial Institution approved and Licensed by the Central Bank of Kenya ***The Original Tender Security should be kept in an envelope clearly labelled with the Tender number & name, and shall be deposited in the Tender Security Box on 3rd Floor Supply Chain Reception at Stima Plaza, Kolobot Road, on or before the opening date and Time in the KPLC portal.***
ITT 22.1	The tendering documents are to be submitted electronically in PDF form.
	D. Submission and Opening of Tenders
ITT 24	All tenders shall be submitted through the KPLC SAP tendering portal **The deadline for Tender submission is:** Date and time **As indicated in the KPLC Tendering Portal on www.kplc.co.ke** Tenderers ***"shall"*** have the option of submitting their Tenders electronically. The electronic Tendering submission procedures shall be SAP tendering portal
ITT 27.1	The Tender opening shall be done through the tendering portal and will take place at: Stima Plaza, Kolobot Road Date & Time: As indicated in the KPLC Tendering Portal on www.kplc.co.ke The electronic Tender opening procedures shall be SAP tendering portal
ITT 27.6	The Form of Tender shall be initialed by not less than three (3) representatives of the Procuring Entity conducting Tender opening. Tender opening minutes, Tender opening register and system generated response comparison report shall be initialed by all representatives of the Procuring Entity..
E. Evaluation and Comparison of Tenders	
ITT 34.1	Margin of preference allowed or not allowed. Not allowed.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
F. ITT 41.1 Award of Contract: ***Award will be in accordance with the following;*** **1. Award Shall be to the bidders with lowest evaluated price Per Lot. Tenderers must quote for all locations in a given lot in order to qualify for award.** **2. No bidder will be awarded more than one Lot subject to (3) below. If a bidder emerges the lowest in more than one Lot, they will be awarded the Lot with the highest value. In case of a tie the bidder with the highest technical score will be awarded the first.** **3. In case there is no other qualified bidder for the un awarded Lot, The award will revert to the already allocated lowest bidder not withstanding No. 2 above.**	
ITT 46.2	If the successful Tenderer fail to sign a contract after award the award shall be annulled and given to the next qualified bidder.
ITT 47	The Performance Security shall be in the form of a bank guarantee, issued by an authorized financial institution. Performance Bond to be submitted before signing of the contract. Performance security shall be in the sum of 10% of the total contract value for contracts above 5M KShs. VAT Inclusive
ITT 49.1	The Adjudicator will be appointed by the Chartered Institute of Arbitrators (CIArb)
ITT 50.1	The procedures for making a procurement-related complaint are available from the "Notification of Intention to Award - Paragraph 5" and from the PPRA website www.ppra.go.ke or email complaints@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 hand delivery or email to: For the attention: *Haroun Otieno* Title/position: *Supply Chain Manager(Procurement)* KPLC: *Kenya Power & Lighting PLC* Email address*:* HOtieno2*@kplc.co.ke* In summary, a Procurement-related Complaint may challenge any of the following: (i) the terms of the Tender Documents; and (ii) KPLC's decision to award the contract.

SECTION III - EVALUATION CRITERIA

Evaluation of duly submitted tenders will be conducted along the following stages: -

3.1 Part 1 - Preliminary Evaluation Under Paragraph 35.1 of the ITT. These are mandatory requirements. This shall include confirmation of the following:-

3.1.1 Submission of Tender Security - Checking its validity, whether it is sufficient whether it is authentic, whether it is Original; whether it is issued by a local bank; whether it is issued by deposit taking microfinance institutions or Sacco societies; whether it is in the format required in accordance with the sample Tender Security Form(s).

3.1.2 Submission of Declaration Form(s) duly completed and signed:-

- *a) Form of Tender*
- *b) Certificate of Independent Tender determination*
- *c) Self-Declaration Form SD1*
- *d) Self-Declaration Form SD2*
- *e) Declaration and commitment to the code of ethics*
- *f) From EL1 1.1 - Tenderer Information Form*

3.1.3 For Local Tenderers, Submission of the following

- *a) Company or Firm's Registration Certificate*
- *b) PIN Certificate.*
- *c) Submission of Valid Business permits certificate in areas of operation, the Business Permit should correspond with item 3.13 (d) below.*
- *d) Evidence of presence in the area quoted for e.g. copy of Title Deed or valid Lease agreement*
- *e. Submission and considering the certificate of Confirmation of directors (CR12) Dated within 12 months before date of opening*
- *e) Names with full contact as well as physical addresses of previous customers of similar works/services on reference letters or completion certificates confirming satisfactory performance by the bidder from at least four (4) previous customers.*

*3.1.4 Confirming that the Tender is valid for the period of **180** days.*

3.1.5 Submission and considering the Confidential Business Questionnaire:-

- *a) Is fully filled.*
- *b) That details correspond to the related information in the bid.*
- *c) That the Tenderer is not ineligible as per paragraph 3.2 of the ITT.*

3.16 The written confirmation of authorization to sign on behalf of the Tenderer shall consist of A company resolution in case of a Director signing (not applicable where the company has got only one director, or where all Directors have signed), or a Power of attorney where a person other than the director signing accompanied by a company resolution.

3.1.7 Submission of and Considering Audited financial statements are those that are reported

within eighteen (18) calendar months of the date of the tender document and confirming the auditors practicing license number (NB: Bidders must clearly indicate the Auditor's ICPAK practicing license registration number in the audited financial statements report.)For companies that are registered or incorporated within the last one year calendar, of the date of tender document, the bank statements submitted covering a period of at least six months prior to the date of the tender document. The copies should be certified by Bank issuing the statements. The certification should be original)

3.1.8 Bidder to provide detailed time schedules/ work Program /Gantt chart showing critical activities that meets the clients requirements

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

3.1.10 Notwithstanding the above, considering any outstanding orders/Supplier Performance Review Scheme (SPRS) where applicable and the performance capacity indicated by the Tenderer. Bidder with more than 50% overdue LPO beyond delivery schedule of similar service shall not qualify for the evaluation.

Tenders will proceed to the Technical Evaluation Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation under Paragraph 3.28.

3.2 Part II – Technical Evaluation and Comparison of Tenders Under Paragraph 3.30 of the ITT. These are mandatory requirements.

3.2.1 Preliminary Technical[1] Evaluation

3.2.2 Tenderers shall be expected to indicate Full compliance of Guaranteed Technical Particulars

3.2.3 Evaluation of Demonstration of ability of the offered service, to comply with the Guaranteed Technical Particulars.

3.2.4 Identifying and determining any deviation(s) from the requirements; errors and oversights.

3.2.5 The tenderer must be registered with the National Construction Authority with a valid Practicing license NCA 1- NCA 4 in Mechanical category (Refrigeration & Air conditioning), and NCA 1 - NCA 7 Electrical Category.

3.2.6 For goods manufactured outside Kenya, applicable relevant ISO standard valid certification or for Goods manufactured in Kenya - valid KEBS Mark of Quality Certificate and / or KEBS Standardization Mark Certificate.

3.2.7 Submission of Relevant Manufacturer's or Principal's Authorization.

[1]

3.2.6 Manufacturer's Warranty duly filled, signed, and stamped

3.2.7 Submission of relevant copies of Manufacturer catalogues/ brochures/drawings

3.2.8 Submission of type test reports

3.2.7 Bidders tendering should provide a methodology demonstrating ability and capacity to carry out the required service for the various locations countrywide.

3. 2.8 Evidence of availability of local service centre to be confirmed on visit. Bidders are required to provide evidence of proof of ownership or valid lease agreement.

Part II (b) - Technical Evaluation under clause 3.20 of the ITT.

It will include the following stages: The following will be scored.

6.2.2 Detailed Technical Evaluation

	EVALUATION CRITERIA	***Maximum Marks***
	Previous experience: *Details of similar Contracts undertaken successfully within the last 5 years and evidenced by letters of reference from clients or practical completion certificates for the respective projects up to maximum 5No. Projects.* *The letters should be within the last 60 months. They should be signed and written in the letter head. Attach reference letters and duly filled FORM EXP. 4.1* *(Each project 5marks, either as a main contractor or subcontracted)*	**25 marks**
	Value of Previous contracts *Details of a minimum of Three (3) awarded and executed contracts carried out within the last 60 months. Bidders to submit orders and completion certificates duly filled FORM EXP. 4.2 (a)* *clearly showing the value of the contracts.* *30M and Above = 5 marks per contract* *15M – 30M= 3 Marks per contract* *5M -15M =2 Marks per contract* *Below 5Marks= 1 mark per contract*	**15 marks**
	Qualified Key personnel: *who will actively be involved in the proposed contract.* ***Project Manager****:* *Submit a Degree in Mechanical engineering, specialized in refrigeration and air conditioning, 7 Marks &*	**25marks**

	a Professional registration with EBK *3 Marks,* ***Technician*** *Submit a certificate in Diploma in Refrigeration and Air conditioning from relevant institutions for at least 1. qualified technician (3 Marks)* ***Electrician*** *Submit a certificate in Electrical Installation from a relevant Institution for at lease 1 qualified electrician (3 Marks)* *Submission and considering Resume of the Project Manager, Technician and Electrician, strictly in the format as per FORM -PER 2* *5yrs Experience and above (3 Marks each).* *3 yrs experience (1 Marks)* *(Provide evidence of academic qualifications, CV's, Contract letters, Telephone contacts must be provided)*	
	Equipment's: ***Transport*** *Bidder shall provide proof of ownership or proof of hire of at lease Four track/pickup as PER form EQU (Evidence should be in form of; receipts of ownership i.e Log book i.e valid lease agreement for owned vehicles. For leases vehicles bidders should show valid lease agreements.* *5 marks – Per Owned Vehicle or Leased*	**20 marks**
	Tools and Equipment : *Provide evidence of possession of equipment i.e, Extended ladder, Electronic leak detector, Adjustable wrenches, Brazing torch and Nitrogen cylinder and drills.* *Attach signed list as evidence* *3 marks Per Equipment*	**15 marks**
	TOTAL	**100**

Notes:

1. Tenderers will proceed to Financial Evaluation stage only if they score a minimum Grand Total Score of 80%

   Tenderers will proceed to Financial Evaluation stage only if they qualify in

compliance with Parts I and II i.e. Preliminary and Technical stages.

3.3 Part III – Financial Evaluation Criteria under Paragraph 3.31 of the ITT. These are mandatory requirements.

2.3.1 This will include the following: -

a) *Confirmation of and considering Bill of Quantities duly completed and signed for the Lot bid for.*
b) *Checking for arithmetical errors*
c) *Checking that the Tenderer has quoted prices based on all costs including insurances, duties, levies, Value Added Tax (V.A.T),PPCBL, Withholding Tax and other taxes payable and delivery to the premises of KPLC or designated site(s)*
d) *1) Where applicable, Audited Financial Statement will be used to verify the following ratios:*

i) Liquidity position: the tenderer shall demonstrate a current ratio of not less than 1:1, calculated as current assets divided by current liabilities.

ii) Financial Leverage: The tenderer shall demonstrate a debt-to-equity ratio not exceeding 2:1, calculated as Total debts divided as Total Equity

2) Where applicable, certified copies of bank statements will be used to verify Liquidity Consistency i.e. The extent to which the tenderer has maintained positive available balances throughout the assessment period.

e) *Taking into account the cost of any deviation(s) from the tender requirements*
f) *Confirming that the bidder has quoted in Kenya Shillings*
g) *Considering information submitted in the Confidential Business Questionnaire against other information in the bid including: -*

- *Declared maximum value of business*
- *Shareholding and citizenship for preferences where applicable.*

h) *Confirming the following: -*

- *that the Supplier's offered Delivery Schedule meets KPLC's requirements*
- *that the Supplier's offered Terms of Payment meets KPLC's requirements.*

i. *Conducting a financial comparison*

3.4 Award criteria

3.4.1 ***Award will be in accordance with the following;***

1. **Award Shall be to the bidders with lowest evaluated price Per Lot. Tenderers must quote for all locations in a given lot in order to qualify for award.**
2. **No bidder will be awarded more than one Lot subject to (3) below. If a bidder emerges the lowest in more than one Lot, they will be awarded the Lot with the highest value. In case of a tie the bidder with the highest technical score will be awarded the first.**

3. **In case there is no other qualified bidder for the un awarded Lot, The award will revert to the already allocated lowest bidder not withstanding No. 2 above.**

***NOTES: -**

1. Prices shall be in Kenya Shillings only
2. Total tender value means the Tenderer's total tender price inclusive of Value Added Tax (V.A.T) for the services it offers to provide.
3. For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original.
4. All attached documents should be serialized and stamped before uploading

SECTION IV - TENDERING FORMS

1. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

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

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

iii) Tenderer must complete and sign and TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE, *CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER,* all *attached to this Form of Tender.*

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

a) Tenderer's Eligibility-Confidential Business Questionnaire

a) Certificate of Independent Tender Determination

c) Self-Declaration of the Tenderer.

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

To: .....
THE KENYA POWER & LIGHTING COMPANY PLC
P.O. Box 30099-00100
Nairobi

a) **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with ITT 9;

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

c) **Tender-Securing Declaration:** We have not been suspended nor declared ineligible by KPLC based on execution of a Tender-Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with ITT 4.7;

d) **Conformity:** We offer to provide the Maintenance services in conformity with the tendering document of the following: *[insert a brief description of the Maintenance services];*

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

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

Or

Option 2, in case of multiple lots: (a) Total price of each lot [*insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies*]; and (b) Total price of all lots (sum of all lots) [*insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies*];

LOT	**Total Price in Kshs. PPCBL Incl & (VAT Incl.) in figures**	**Total Price in Kshs. PPCBL Incl & (VAT Incl.) in Words**
LOT 1		
LOT 2		
Total Sum in Kshs. PPCBL Incl & (VAT Incl.) of all Lots		

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

i) The discounts offered are: *[Specify in detail each discount offered.]*

ii) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify in detail the method that shall be used to apply the discounts*];

g) **Tender Validity Period:** Our Tender shall be valid for …**180**……. Days as specified in TDS 20.1 (as amended if applicable) from the date fixed for the Tender submission deadline (specified in TDS 23.1 (as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

h) **Performance Security:** If our Tender is accepted, we commit to obtain a Performance Security in accordance with the tendering document;

i) **One Tender Per Tenderer:** We are not submitting any other Tender (s) as an individual Tenderer, and we are not participating in any other Tender (s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 14;

j) **Suspension and Debarment**: We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA. Further, we are not ineligible under Kenya's official regulations or pursuant to a decision of the United Nations Security Council;

k) **State-owned enterprise or institution**: *[select the appropriate option and delete the other] [We are not a state- owned enterprise or institution]/[We are a state-owned enterprise or institution but meet the requirements of ITT 4.6];*

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

Name of Recipient	Address	Reason	Amount

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

m) *[Delete if not appropriate, or amend to suit]* We confirm that we understand the provisions relating to Standstill Period as described in this tendering document and the Procurement Regulations.

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

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

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

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

Determination" attached below.

r) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Suppliers, Contractors and Service Providers, copy available from (*specify website*) during the procurement process and the execution of any resulting contract.

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

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

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

c) Self-Declaration of the Tenderer- to declare that we will, if awarded a contract, not engage in any form of fraud and corruption. Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in

"Appendix 1- Fraud and Corruption" attached to the Form of Tender.

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

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

Title of the person signing the Tender: ..... *[insert complete title of the person signing the Tender]* **Signature of the person named above**: .....*[insert signature of person whose name and capacity are shown above]* **Date signed**.....*[insert date of signing]* **day of**.....*[insert month], [insert year]*

i) TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

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

a) Tenderer's details

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

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full_____Age____Nationality_____ Country of Origin

Citizenship_____

c) Partnership, provide the following details If director is a company, give details of human directors until all human directors are disclosed.

	Names of Partners	Nationality	Citizenship	% Shares owned

1				
2				
3				

d) Registered Company, provide the following details.

i) Private or public Company

ii) State the nominal and issued capital of the Company: -_____

Nominal Kenya Shillings (Equivalent)Issued Kenya Shillings (Equivalent)_____

iii) Give details of Directors as follows.

	Names of Director	**Nationality**	**Citizenship**	**% Shares owned**
1				
2				
3				

(e) DISCLOSURE OF INTEREST-Interest of the Firm in KPLC.

i) Are there any person/persons in.....(*Name of KPLC)* who has/have an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows.

	Names of Person	**Designation in KPLC**	**Interest or Relationship with Tenderer**
1			
2			
3			

ii) Conflict of interest disclosure

	Type of Conflict	**Disclosure YES OR NO**	**If YES provide details of the relationship with Tenderer**
1	Tenderer is directly or indirectly 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 KPLC regarding this tendering process.		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
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 KPLC 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 KPLC who would be involved in the implementation or supervision of the Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to KPLC throughout the tendering process and execution of the Contract.		

f) Certification

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

Full Name of Authorized Signatory_____

Title or Designation_____

_____ _____

(Signature) *(Date)*

ii) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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

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

1. I have read and I understand the contents of this Certificate;

2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;

3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;

4. For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
   a) Has been requested to submit a Tender in response to this request for tenders;
   b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;

5. The Tenderer discloses that [check one of the following, as applicable]:
   a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
   b) The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

6. In particular, without limiting the generality of paragraphs (5) (a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
   a) prices;
   b) methods, factors or formulas used to calculate prices;
   c) the intention or decision to submit, or not to submit, a tender; or
   d) the submission of a tender which does not meet the specifications of the

request for Tenders; except as specifically disclosed pursuant to paragraph (5) (b) above;

7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5) (b) above;

8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name……. Title…… Date……

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

(iii) SELF-DECLARATION FORMS

FORM SD 1

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

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

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

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

3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

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

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

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

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

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

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

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

5. That the aforesaid Bidder does not have any conflict of interest or pecuniary interest with any other Tenderer participating in this tender

6. THAT what is disponed to herein above is true to the best of my knowledge information and belief.

……

…….....……

…….....…… (Title)

(Signature) (Date)

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized signatory…….....……

Sign…….....

Position…….....
.....……

Office address…….....…….

Telephone……. E-mail……

Name of the Firm/Company…….....……
……

Date…….....……

(Company Seal/ Rubber Stamp where applicable)

Witness

Name…….....

Sign…….....

Date…….....

iv) APPENDIX 1-FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

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

2. Requirements

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

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

1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
    a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
    b) if a contract has already been entered into with the person, the contract shall be voidable;
4) The voiding of a contract by KPLC under subsection (7) does not limit any legal remedy KPLC may have;
5) An employee or agent of KPLC or a member of the Board or committee of KPLC who has a conflict of interest with respect to a procurement: -
    a) Shall not take part in the procurement proceedings;
    b) Shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and

c) shall not be a subcontractor for the tenderer to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontract or appointed shall meet all the requirements of this Act.

6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to KPLC;

7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5) (a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

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

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

i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

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

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

v) "obstructive practice" is:

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

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

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

c) Rejects a proposal for award[1] of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

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

e) Requires that a clause be included in Tender documents and Request for

Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect[2] all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

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

---

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

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

2. TENDERER INFORMATION FORM

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

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

Tender Name and Tender Number……..:__*[insert identification No if this is a Tender for an alternative]*

1. Tenderer's Name *[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's year of registration: *[insert Tenderer's year of registration]*
5. Tenderer's Address in country of registration: *[insert Tenderer's legal address in country of registration]*
6. Tenderer's Authorized Representative Information Name: Address: Telephone: Email Address:
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ❑ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4. ☐ In case of JV, Form of intent to form JV or JV agreement, in accordance with ITT 4.1. ☐ Acurrent tax clearance certificate or tax exemption certificate in case of Kenyan tenderers issued by the the Kenya Revenue Authority in accordance with ITT 4.14. ☐ In case of state-owned enterprise or institution, in accordance with ITT 4.6 documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the agency of KPLC 8.Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

OTHER FORMS

3. TENDERER'S JV MEMBERS INFORMATION FORM

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Tenderer and for each member of a Joint Venture]].

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

Tender Name and Tender Number.: .....

1. Tenderer's Name:
2. Tenderer's JV Member's name:
3. Tenderer's JV Member's country of registration:
4. Tenderer's JV Member's year of registration:
5. Tenderer's JV Member's legal address in country of registration:
6. Tenderer's JV Member's authorized representative information Name: Address: Telephone/Fax numbers: Email Address:
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration 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 KPLC, in accordance with ITT 4.6.
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

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

Beneficiary: _____

Request for Tenders No: _____

Date: _____

TENDER GUARANTEE No.: _____

Guarantor: _____

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

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

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

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

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

4. We undertake to pay you, upon your first written demand declaring the Tenderer to be in breach of the tender requirements and without cavil or argument, and without need of prove of breach.

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

_____

[signature(s)]

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas …… [*Name of the tenderer]* (hereinafter called "the tenderer") has submitted its tender dated …… [*Date of submission of tender]* for the …… *[Name and/or description of the tender]* (hereinafter called "the Tender") for the execution of under Request for Tenders No._____("the ITT").

2. KNOW ALL PEOPLE by these presents that WE …… of …… [**Name of Insurance Company**] having our registered office at …… (hereinafter called "the Guarantor"), are bound unto …….. [*Name of KPLC*] (hereinafter called "the KPLC") in the sum of …… (Currency and guarantee amount) for which payment well and truly to be made to the said KPLC, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

   Sealed with the Common Seal of the said Guarantor this ___day of _____ 20 __.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:

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

   b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers ("ITT") of the Procuring Entity's Tendering document.

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

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

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

[Date]	*[Signature of the Guarantor]*
[Witness]	*[Seal]*

QUALIFICATION FORMS

1. FOREIGN TENDERERS 40% RULE

Pursuant to ITT 3.9, a foreign tenderer must complete this form to demonstrate that the tender fulfils this condition.

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT			
	PERCENTAGE OF CONTRACT PRICE			

2. FORM EQU: EQUIPMENT

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

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

Omit the following information for equipment owned by the Tenderer.

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

3. FORM PER-1

Tenderer's/Contractor's

Representative and Key

Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Tenderer's/Contractor' Representative and Key Personnel.

1.	**Title of position:** Contractor's Representative	
	Name of candidate:	
	Duration of appointment:	
	Time commitment: for this position:	
	Expected time schedule for this position:	
2.	**Title of position:**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment: for this position:	
	Expected time schedule for this position:	
3.	**Title of position:**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment: for this position:	
	Expected time schedule for this position:	
4.	**Title of position:**	
	Name of candidate:	
	Duration of appointment:	
	Time commitment: for this position:	
	Expected time schedule for this position:	

5.	**Title of position:**	
	Name of candidate	
	Duration of appointment:	
	Time commitment: for this position:	
	Expected time schedule for this position:	

4. FORM PER - 2:

Resume and Declaration - Contractor's Representative and Key Personnel.
Name of Tenderer_____

Position [*#1*]: [*title of position from Form PER-1*]		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency:	
Details		
	Address of KPLC:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present KPLC:

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

Project	**Role**	**Duration of involvement**	**Relevant experience**

Declaration

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

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

Commitment	**Details**
Commitment to duration of contract:	
Time commitment:	

I understand that any misrepresentation or omission in this Form may:

a) be taken into consideration during Tender evaluation;

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

c) result in my dismissal from the contract.

Name of Contractor's Representative or Key Personnel:

_____

[*insert name*] Signature:

_____

_____

Date: (day month year):

_____

_____

Countersignature of authorized representative of the Tenderer:

Signature:

_____

Date: (day month year):

_____

_____

TENDERERS QUALIFICATION WITHOUT PREQUALIFICATION

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

5. FORM EL I -1.1 Tenderer Information Form

Date:_____

ITT No. and title:_____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration:
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address:
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4 ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 4.1 ☐ In case of state-owned enterprise or institution, in accordance with ITT 4.6, documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of KPLC 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

6. FORM ELI - 1.2

Tenderer's JV Information Form

(to be completed for each member of Tenderer's JV)

Date:_____

ITT No. and title:_____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 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 KPLC, in accordance with ITT 4.6. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

7. FORM CON -2

Historical Contract Non-Performance, Pending Litigation and Litigation History. Tenderer's Name: _____

Date: _____ JV Member's Name___ ITT No. and title: _____

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

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
		Contract Identification: _____ Name of KPLC: _____ Address of KPLC: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____	
		Contract Identification: Name of KPLC: Address of KPLC: Matter in dispute: Party who initiated the dispute: Status of dispute:	

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

☐ No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.

☐ Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

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

8. FORM FIN –3.1:

Financial Situation and Performance

Tenderer's Name:

_____

Date:

_____

_____

JV Member's Name

_____

_____

ITT No. and title:

_____

6.4.1. Financial Data

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

Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITT 15 for the exchange rate

15. Sources of Finance

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

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

Financial documents

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

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

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

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

d) Correspond to accounting periods already completed and audited.

Attached are copies of financial statements[2] for the_____years required above; and complying with the requirements

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

16. FORM FIN –3.2:

Average Annual Construction Turnover

Tenderer's Name: Date:……..JV Member's Name_____ ITT No.

and title:_____

	Annual turnover data (construction only)		
Year	**Amount Currency**	**Exchange rate**	**Kenya Shilling equivalent**
Average Annual Construction Turnover *			

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

17. FORM FIN -3.3:

Financial Resources

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

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

18. FORM FIN -3.4:

Current Contract Commitments / Works in Progress

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

No.	Name of Contract	KPLC's Contact Address, Tel,	Value of Outstanding Work [Current Kenya Shilling /month Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]
1					
2					
3					
4					
5					

19. FORM EXP - 4.1

General Relevant Work Experience

Tenderer's Name:_____

Date:_____ JV Member's

Name_____ ITT No. and

title:_____

Page_____of_____pages

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

		Address: _____	

20. FORM EXP - 4.2 (a)

Specific Work and Management Experience

Tenderer's Name:_____

Date:_____

JV Member's Name_____

ITT No. and title:_____

Similar Contract No.	**Information**			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			**Kenya Shilling**	
If member in a JV or sub-contractor, specify participation in total Contract amount				
KPLC's Name:				
Address: Telephone/fax number E-mail:				
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:				
1. Amount				
2. Physical size of required works items				
3. Complexity				
4. Methods/Technology				
5. Construction rate for key activities				
6. Other Characteristics				

21. FORMEXP- 4.2 (b)

Work Experience in Key Activities

Tenderer's Name:_____ Date:_____
Tenderer's

JV Member Name:_____ Sub-contractor's Name[3]

(as per ITT 34):_____ ITT No. and title:_____
All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One:

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

2. Activity No. Two

3. .....

[3] *If applicable*

SCHEDULE FORMS

*[The Tenderer shall fill in these Forms in accordance with the instructions indicated. The list of line items in column1of the **Activity Schedules** shall coincide with the List of Maintenance services specified in KPLC's Requirements.]*

WORK SCHEDULES AND SPECIFICATIONS

APPENDIX 1.

DETAILED SPECIFICATIONS AND GUARANTEED TECHNICAL PARTICULARS

APPENDIX 2.

BILLS OF QUANTITIES

NOTES TO THE PRICE SCHEDULE*

1. The Tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items of the Price Schedules shall coincide with the List of Services specified by KPLC in the Schedule of Requirements. The quantities are estimated to cover the contract period.
2. The offered unit price MUST be rounded to two decimal places. Where the Tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to two decimal places and used for the purposes of this tender.
3. The unit prices indicated on the KPLC tendering portal should be exclusive of VAT and the quoted price not be subject to change for the contract period.
4. Bidders should use the prevailing VAT rate. However, prices entered in the KPLC-SRM tendering portal should be exclusive of VAT. In case of discrepancies between the price keyed in the SRM portal and those on this price schedule uploaded as an attachment, the latter shall prevail. The Bidder's grand totals should be the same as the tender sum indicated in the Tender Form and should be correctly Computed. Name of tenderer [insert complete name of tenderer] Signature of tenderer [signature of person signing the Tender] Date [insert date]
5. The Bidder's grand totals should be the same as the tender sum indicated in the Tender Form
6. Price quoted shall be inclusive of a 0.03% Public Procurement Capacity Building Levy of the tender sum exclusive of VAT. The Levy shall be deducted from the suppliers payment during contract implementation and remitted to PPRA as stipulated in the Public Procurement Capacity Building Levy order 2023 effective for all tenders published after 1st September 2024

1. Method Statement

[KPLC shall provide main features of the expected method of carrying out the contract, including indicating the material, personnel and equipment inputs].

	SUMMARY PER LOT		
No.	**Location**	**No. of Units**	**No. of Service (Preventive Maintenance) in a Year**
	LOT. 1		
a	Coast	17	4
	LOT 2		
b	Central Office	6	4
c	Stima Club	31	4
d	Central Rift	20	4
e	West Kenya	17	4
f	South Nyanza	7	4
g	North Rift	3	4
h	North Eastern	14	4
i	IESR	2	4

Expected period of Air Conditioning (AC) Units and Ceiling Fans , Installation, Testing & Commissioning Units is 6 months upon issuance of LPO

Contract period 24 months

1. NOTIFICATION OF INTENTION TO AWARD

[This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender.]
[Send this Notification to the Tenderer's Authorized Representative named in the Tenderer Information Form]

1) For the attention of Tenderer's Authorized Representative
Name: .....*[insert Authorized Representative's name]*
Address: .....*[insert Authorized Representative's Address]*

Telephone numbers: .....*[insert Authorized Representative's telephone/fax numbers]*

Email Address: .....*[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

DATEOFTRANSMISSION: This Notification is sent by: [*email/fax*]

on [*date*] (local time) **KPLC:** .....*[insert the name*

of KPLC]

Contract title: .....*[insert the name of the contract]*

ITT No: .....*[insert ITT reference number from Procurement Plan].*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

a) Request a debriefing in relation to the evaluation of your Tender, and/or

b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

(i) The successful Tenderer

Name:	[*insert name of successful Tenderer*]
Address:	[*insert address of the successful Tenderer*]
Contract price:	[*insert contract price of the successful Tender*]

(ii) Other Tenderers [INSTRUCTIONS: insert names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as readout.]

Name of Tenderer	**Tender price**	**Evaluated Tender price (if applicable)**
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]

2) How to request a debriefing.

DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (local time).
You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

Attention: .....*[insert full name of person, if applicable]*

Title/position: .....*[insert title/position]*

Agency: .....*[insert name of KPLC]*

Email address: .....*[insert email address]*

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

3) How to make a complaint?

Period: Procurement-related Complaint challenging the decision to award shall be submitted by [*insert date and time*].

Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

Attention: ..... *[insert full name of person, if applicable]*

Title/position: .....*[insert title/position]*

Agency: ..... *[insert name of KPLC]*

Email address: ..... *[insert email address]*

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all of the information required to support the complaint.
5. The application must be accompanied by the fees set out in the Procurement Regulations, which shall not be refundable (information available from the Public Procurement Authority at complaints@ppra.go.ke info@ppra.go.ke or

4) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended as stated in Section 4

above. If you have, any questions regarding this Notification

pleased don’t hesitate to contact us. On behalf of KPLC:

Signature:_____

Name:_____

Title/position:_____

Telephone:_____

Email:_____

2. Request for Review

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO……. OF…….….20……...

BETWEEN

……...……. APPLICANT

AND

……RESPONDENT (KPLC)

Request for review of the decision of KENYA POWER AND LIGHTING COMPANY of ……dated the…day of …….20…….in the matter of Tender No……...…of ……...20….. for .....(Tender description).

REQUEST FOR REVIEW

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

1.

2.

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

1.

2.

SIGNED ……. (Applicant) Dated on……. day of ……/…20……

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on……day of ……....20…….……

SIGNED

Board Secretary

3. LETTER OF AWARD

[Form head paper of KPLC] [date] To: .....*[name and address of the Service Provider]*

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us (KPLC).

You are requested to furnish the Performance Security **within 28 days** in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section X, Contract Forms, of the tender document.

Please return the attached Contract dully signed Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract

4. FORM OF CONTRACT [Form head paper of KPLC]

LUMP-SUMREMUNERATION

This CONTRACT (herein after called the "Contract") is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, Kenya Power and Lighting Company PLC (herein after called the "KPLC") and, on the other hand, *[name of Service Provider]* (herein after called the "Service Provider").

[***Note**: In the text below text in brackets is optional; all notes should be deleted in final text. If the Service Provider consist of more than one entity, the above should be partially amended to read as follows:* "… (herein after called the "KPLC") and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to KPLC for all the Service Provider's obligations under this Contract, namely, *[name of Service Provider]* and *[name of Service Provider]* (herein after called the "Service Provider").]

WHEREAS

a) KPLC has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (herein after called the "Services");

b) the Service Provider, having represented to KPLC that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of……;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Agreement, and the priority of the documents shall be as follows:

   a) The Form of Acceptance;

   b) The Service Provider's Tender

   c) The Special Conditions of Contract;

   d) The General Conditions of Contract;

   e) The Specifications and the Priced Activity Schedule; and

   f) The following Appendices: *[**Note**: If any of these Appendices are not used, the words "Not Used" should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.]*

   Appendix A: Description of the Services Appendix B: Schedule of Payments Appendix C: Subcontractors Appendix D: Breakdown of

Contract Price

2. The mutual rights and obligations of KPLC and the Service Provider shall be as set forth in the Contract, in particular:

   a) The Service Provider shall carry out the Services in accordance with the provisions of the Contract; and

   b) KPLC shall make payments to the Service Provider in accordance with the provisions of the Contract.

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

For and on behalf of

_____

[name of KPLC]

[Authorized

Representative

For and on behalf of

_____

[name of Service Provider] [Authorized Representative]

*[**Note**: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the Service Provider

_____

[name of

_____

member]

_____

[name of member]

[Authorize

_____

[Authorized Representative]

d

Represent

ative]

PART II – KPLC'S REQUIREMENTS

4. 0 Part A: Details on services required

The Procurement of ACS Units, Installation, Test Servicing and Maintenance Contract KPLC (COUNTRY WIDE) shall cover the following for all the sites:

4.1 Scope of Work

The work involves quarterly inspection and comprehensive maintenance of the air conditioners. This shall include replacement of parts at agreed cost on spare parts. All replacement parts shall be new and of the type and make of the air conditioner being serviced/repaired. For this matter, the Tenderer shall confirm availability of spare parts for the variety of air conditioners he/she offers to provide maintenance service under this tender. Failure to provide spare parts after the award of the contract shall lead to termination of the contract with penalties. The scope of work shall therefore be comprehensive including but not limited to the following:

a) Supply, installation, test and commission the air conditioners of various sizes listed in the Price Schedule
b) Cleaning of the filters for the indoor units.
c) Replacement of any damaged air filters for the indoor units.
d) Cleaning the evaporator and combing the evaporator fins.
e) Cleaning the condensers and combing the condenser fins.
f) Pressure testing and rectifying gas leakages together with charging of gas/ refrigerant.
g) Checking and rectifying or replacing as necessary electrical controls including overload relays, control circuit boards etc. This shall however exclude replacement of automatic Voltage Switchers (AVS) which shall be replaced by the Bank at the request of the service provider.
h) Replacement of compressors if defective.
i) Replacement of condenser and evaporator fans if defective.
j) Clearing blockages and setting levels for the condensate drainage piping.
k) Replacement of condensate pumps for cassette units where defective.
l) Relocation of air conditioners to new sites

Any addition or omission to the number of existing air conditioner in the signed service contract shall be agreed with the service provider before service can be extended or reduced beyond the existing quantity of air conditioning units in the contract.

At the end of each twelve months of the term hereof the following additional work should

be carried out: -

a. Check the compressor for proper operation
b. Check the outdoor fan motor blade balancing
c. Check all parameters on program within the master card Board interface.
d. Give a Report to the client on the General Performance
e. Re-paint the bracket of the outdoor Units
f. Re-check all the Arm flex insulation for copper heat protection
g. Avail the last expenses on repair works

4.2 Guaranteed Response Service Levels

Priorities

Priority A	Hardware fault, causes failure to systems. Total inability to support a systems i.e. failure of more than 50% of systems
Priority B	Hardware fault, does not cause failure to other systems i.e. failure of a single unit
Priority C	Cosmetic or preventative maintenance request from KPLC
Priority D	Other work to be scheduled at time convenient to both parties i.e. Failure of redundant components

Call to Fix Times (CTF) Faults should be resolved within these established timeframes

Priority A	4 working hours
Priority B	12 working hours
Priority C	36 working hours
Priority D	By mutual agreement per call

4.3 Schedule of Equipment

The schedule of equipment for the contract to be entered into with the successful bidder shall be all the Air Conditioners listed under **Section XX Part B** of this document. *The general type shall accommodate any other not capture within the equipment schedule*. The Tenderer is encouraged to confirm details and the condition of the air conditioning equipment before submitting his/her tender.

4.4 Troubleshooting

After troubleshooting, the firm will seek clearance from KPLC to proceed with the repair by giving a report of the troubleshooting. The **diagnostic report** will include the expected cost of the actual repair and the cost of spares derived from the list submitted.

4.5 Preventive maintenance (PM)

Preventive maintenance a proactive event and shall be schedule in liaison with Project Manager.

Preventative deliverables are applicable to both Supported & Third Party Equipment and comprise of:

a. Scheduled Visits - Skilled Labour
b. Equipment Cleaning & Inspection
c. Environmental Inspection (Electrical & Climatic)
d. Electronic Inspection
e. Inspection and Testing
f. Implement Updates
g. Functional Verification
h. Replacement of Parts
i. Reporting
j. All equipment serviced to have service tags (updated on regular basis)

4.6 Unscheduled maintenance

Firms will be called upon to respond to a fault which require immediate attention. A reactive event and includes an unlimited number of visits to enable the Equipment to resume operation and includes replacement parts.

In the event that the repair cannot be effected in a reasonable time, temporary loan equipment will be provided to enable the Primary Load to resume operation.

Unscheduled Maintenance visits are provided on an "as and when" basis and incorporate a guaranteed response time.

Unscheduled deliverables are applicable to Both Supported & Third Party Equipment and comprise of:

a. Unscheduled Visits - Skilled Labour
b. Guaranteed Response Time (Para 4.2)
c. Replacement of Parts
d. Temporary Support to be provided
e. Functional Verification
f. Reporting
g. All equipment serviced to have service tags (updated on regular basis)

4.7 Service Obligations

a. The Supplier shall perform the Services at the locations specified in the Service Schedule in Section XX Part B except in the cases where the Equipment needs to be taken offsite.

b. The Supplier undertakes that the Services that it shall provide herein, shall be carried out with reasonable care and skill and performed on a timely workmanlike and cost-effective manner using only qualified personnel sufficiently familiar with the functions and operation of the Equipment and any modifications therein.

4.8 Point of Contact

The persons to be contacted with regard to any issue under this Contract shall be as specified and provided in a Contact schedule.

Name	Designation	Email Address	Mobile Number

Director's Signature: ……. Date…….

Official Stamp…….....

SECTION VIII - GENERAL CONDITIONS OF CONTRACT

1. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

a) The Adjudicator is the person appointed jointly by KPLC and the Service Provider to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.

b) "Activity Schedule" is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;

d) "Completion Date" means the date of completion of the Services by the Service Provider as certified by KPLC

e) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause1of such signed Contract;

f) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;

g) "Day works" means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration.

h) "KPLC" means KPLC or party who employs the Service Provider

i) "Foreign Currency" means any currency other than the currency of Kenya;

j) "GCC" means these General Conditions of Contract;

k) "Government" means the Government of Kenya;

l) "Local Currency" means Kenya shilling;

m) "Member," in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Service Provider' rights and obligations towards KPLC under this Contract;

n) "Party" means KPLC or the Service Provider, as the case may be, and "Parties" means both of them;

o) "Personnel" means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof;

p) "Service Provider" is a person or corporate body whose Tender to provide the Services has been accepted by KPLC;

q) "Service Provider's Tender" means the completed Tendering Document submitted by the Service Provider to KPLC

r) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;

s) "Specifications" means the specifications of the service included in the Tendering Document submitted by the Service Provider to KPLC

t) "Services" means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider's Tender.

u) "Subcontractor" means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4;

v) "Public Procurement Regulatory Authority (PPRA)" shall mean the Government Agency responsible for oversight of public procurement.

w) "Project Manager" shall the person appointed by KPLC to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by KPLC and notified to the Contractor.

x) "Notice of Dissatisfaction" means the notice given by either Party to the other indicating its dissatisfaction and intention to commence arbitration.

1.2 Applicable Law

The Contract shall be interpreted in accordance with the laws of Kenya**.**

1.3 Language

This Contract has been executed in the English language**,** which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, hand delivery, or email to such Party at the address **specified in the SCC.**

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A, in the specifications and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as KPLC may approve.

1.6 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by KPLC or the Service Provider may be taken or executed by the officials **specified in the SCC.**

1.7 Inspection and Audit by the PPRA

Pursuant to paragraph 2.2 e. of Attachment 1 to the General Conditions, the Service Provider shall permit and shall cause its subcontractors and sub-consultants to permit, PPRA and/or persons appointed by PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by PPRA. The Service Provider's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 3.10 which provides, *inter alia*, that acts intended to materially impede the exercise of PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to PPRA's prevailing sanctions procedures).

1.8 Taxes and Duties

The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. Commencement, Completion, Modification, and Termination of Contract

2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be **stated in the SCC.**

2.2 Commencement of Services

The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be **specified in the SCC.**

2.3 Intended Completion Date

Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is **specified in the SCC.** If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.

2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

2.5 Value Engineering

2.5.1 The Service Provider may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

a) The proposed change(s), and a description of the difference to the existing contract requirements;

b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs, if applicable) KPLC may incur in implementing the value engineering proposal; and

c) a description of any effect(s) of the change on performance/functionality.

2.5.2 KPLC may accept the value engineering proposal if the proposal demonstrates benefits that:

a) accelerates the delivery period; or
b) reduces the Contract Price or the lifecycle costs to KPLC; or
c) improves the quality, efficiency, safety or sustainability of the services; or
d) yields any other benefits to KPLC, without compromising the necessary functions of the Facilities.

2.5.3 If the value engineering proposal is approved by KPLC and results in:

a) a reduction of the Contract Price; the amount to be paid to the Service Provider shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or

b) an increase in the Contract Price; but results in a reduction in lifecycle costs due to any benefit described in
(a) to (d) above, the amount to be paid to the Service Provider shall be the full increase in the Contract Price.

2.6 Force Majeure

2.6.1 Definition

For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.6.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative Measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.6.3 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.6.5 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services

and in reactivating the Service after the end of such period.

2.7 Termination

2.7.1 By KPLC

KPLC may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through
(d) of this Sub-Clause 2.6.1:

a) If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as KPLC may have subsequently approved in writing;

b) If the Service Provider become insolvent or bankrupt;

c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or

d) if the Service Provider, in the judgment of KPLC has engaged in Fraud and Corruption, as defined in paragraph 2.2 a. of Attachment 1 to the GCC, in competing for or in executing the Contract

2.7.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to KPLC, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and
(b) of this Sub-Clause 2.6.2:

a) If KPLC fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or

b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.7.3 Payment upon Termination

Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, KPLC shall make the following payments to the Service Provider:

a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;

b) except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.

3. Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contractor to the Services, as faithful adviser to KPLC, and shall at all times support and safeguard KPLC's legitimate interests in any dealings with Subcontractors or third parties.

3.2 Conflict of Interests

3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contract or the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

a) During the term of this Contract, any business or professional activities in Kenya which would conflict with the activities assigned to them under this Contract;

b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;

c) after the termination of this Contract, such other activities as may be **specified in the SCC.**

3.3 Confidentiality

The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or KPLC's business or operations without the prior

written consent of KPLC.

3.4 The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by KPLC, insurance against the risks, and for the coverage, as shall be **specified in the SCC;** and (b) at KPLC's request, shall provide evidence to KPLC showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Service Provider's Actions Requiring KPLC's Prior Approval

The Service Provider shall obtain KPLC's prior approval in writing before taking any of the following actions:

a) enteringintoasubcontractfortheperformanceofanypartoftheServices,

b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),

c) changing the Program of activities; and

d) any other action that may be **specified in the SCC.**

3.6 Reporting Obligations

The Service Provider shall submit to KPLC the reports and documents specified in Appendix Bin the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents Prepared by the Service Provider to Be the Property of KPLC

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of KPLC, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to KPLC, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC.**

3.8 Liquidated Damages

3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to KPLC at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC.** KPLC may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Over-payment

If the Intended Completion Date is extended after liquidated damages have been paid, KPLC shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in KPLC's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC.**

3.9 Performance Security

The Service Provider shall provide the Performance Security to KPLC no later than the date specified in the Form of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to KPLC, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

3.10 Fraud and Corruption

KPLC requires compliance with the Government's Anti-Corruption laws and its prevailing sanctions. KPLC requires the Service Provider to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

3.11 Sustainable Procurement

The Service Provider shall conform to the sustainable procurement contractual provisions, if and as specified in the **SCC**.

4. Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by KPLC.

4.2 Removal and/or Replacement of Personnel

a) Except as KPLC may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.

b) If KPLC finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at KPLC's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to KPLC.

c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. Obligations of KPLC

5.1 Assistance and Exemptions

KPLC shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as **specified in the SCC.**

5.2 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities

KPLC shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6. Payments to the Service Provider

6.1 Lump-Sum Remuneration

6.1.1 The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub- Clauses 2.4 and 6.3.

6.1.2 Where the contract price is different from the corrected tender price, in order to ensure the contract or is not paid less or more relative to the contract price (*which would be the tender price*), any part payment valuation and variation orders on omissions and additions valued based on rates in the schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: *(corrected tender price-tender price)/tenderpriceX100*.

6.2 Contract Price

a) The price payable is **set forth in the SCC.**

b) No price will be payable in foreign currency.

6.3 Payment for Additional Services, and Performance Incentive Compensation

6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

6.3.2 If the SCC so specify, the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.

6.4 Terms and Conditions of Payment

Payments will be made to the Service Provider according to the payment schedule **stated in the SCC. Unless otherwise stated in the SCC**, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC.** Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to KPLC specifying the amount due.

6.5 Interest on Delayed Payments

If KPLC has delayed payments beyond thirty (30) days after the due date stated in the **SCC**, interest shall be paid to the Service Provider for each day of delay at the rate stated in **the SCC**.

6.6 Price Adjustment

6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.** If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \, Lmc/Loc + C_c \, Imc/Ioc$$

Where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency "c".

A_c, B_c and C_c are coefficients specified in the **SCC**, representing: A_c the non-adjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency "c"; and

Lmc is the index prevailing at the first day of the month of the corresponding invoice date and Loc is the index prevailing 28 days before Tender opening for labor; both in the specific currency "c".

Imc is the index prevailing at the first day of the month of the corresponding invoice date and Ioc is the index prevailing 28 days before Tender opening for other inputs payable; both in the specific currency "c".

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Zo/Zn will be applied to the respective component factor of pn for the formula of the relevant currency. Zo is the number of units of Kenya Shillings of the index, equivalent to one unit of the currency payment on the date of the base index, and Zn is the corresponding number of such currency units on the date of the current index.

6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

6.7 Day works

6.7.1 If applicable, the Day work rates in the Service Provider's Tender shall be used for small additional amounts of Services only when KPLC has given written instructions in advance for additional services to be paid in that way.

6.7.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by KPLC. Each completed form shall be verified and signed by KPLC representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.

6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2

7. Quality Control

7.1 Identifying Defects

The principle and modalities of Inspection of the Services by KPLC shall be as **indicated in the SCC.** KPLC shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. KPLC may instruct the Service Provider to search for a Defect and to uncover and test any service that KPLC considers may have a Defect. Defect Liability Period is as **defined in the SCC**.

7.2 Correction of Defects, and Lack of Performance Penalty

a) KPLC shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.

b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by KPLC's notice.

c) If the Service Provider has not corrected a Defect within the time specified in KPLC's notice, KPLC will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

8. Settlement of Disputes

8.1 Contractor's Claims

8.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

8.1.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and KPLC shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.

8.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

8.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting KPLC's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contract or to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

8.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full Supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

a) This fully detailed claim shall be considered as interim;

b) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and

c) The Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

8.1.6 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall never the less give his response on the principles of the claim with in the above defined time period.

8.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause
3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the

Contractor is entitled under the Contract.

8.1.8 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

8.1.9 If the Project Manager does not respond within the time frame defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 8.2 [Matters that may be referred to arbitration].

8.1.10 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub- Clause.

8.2 Matters that may be referred to arbitration

8.2.1 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Services or abandonment of the Services or termination of the Contract by either party:

a) The appointment of a replacement Project Manager upon the said person ceasing to act.

b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.

c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.

e) Any dispute arising in respect of war risks or war damage.

f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Services or termination or alleged termination of the Contract, unless KPLC and the Contractor agree otherwise in writing.

8.3 Amicable Settlement

Where a Notice of Dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 8.1 above should move to commence arbitration after the fifty- sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

8.4 Arbitration

8.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 8.3 shall be finally settled by arbitration. Arbitration shall be conducted in accordance with the

Arbitration Laws of Kenya.

8.4.2 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

8.4.3 Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

8.4.5 Arbitration may be commenced prior to or after completion of the services. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the services.

8.4.6 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

8.5 Arbitration with proceedings

8.5.1 In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

i) Law Society of Kenya or
ii) Chartered Institute of Arbitrators (Kenya Branch)

8.5.2 The institution written to first by the aggrieved party shall take precedence overall other institutions.

8.5.3 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising there under or in connection there with, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

8.5.4 Provided that no arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

8.5.5 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.

8.5.6 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to

have been the subject of or included in any certificate.

8.5.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

8.5.8 The award of such Arbitrator shall be final and binding upon the parties.

8.6 Failure to Comply with Arbitrator's Decision

8.6.1 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

9. The Adjudicator

9.1. Should the Adjudicator resign or die, or should KPLC and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by KPLC and the Service Provider. In case of disagreement between KPLC and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 14 days of receipt of such request.

9.2 The Adjudicator shall be paid by the hour at the rate **specified in the TDS and SCC,** together with reimbursable expenses of the types **specified in the SCC**, and the cost shall be divided equally between KPLC and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the General Conditions of Contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

Number of GC Clause	**Amendments of, and Supplements to, Clauses in the General Conditions of Contract**
1.1(a)	The Adjudicator will be appointed by the Chartered Institute of Arbitrators (CIArb)
1.1(w)	Project Manager is Manager, Administration & Property
1.1(e)	The contract name is Procurement Of Air Conditioning (AC) Units and Ceiling Fans , Installation, Testing & Commissioning for various Company Facilities
1.1(h)	KPLC is Kenya Power and Lighting Company PLC. P. O. Box 30099 - 00100 NAIROBI, KENYA
1.4	The addresses are: Attention: General Manager, Supply Chain & Logistics, The Kenya Power and Lighting Company PLC, Stima Plaza, 3rd Floor P.O Box 30099 - 00100 Nairobi, Kenya Telephone:+254-20-3201821 Electronic mail address: procurement@kplc.co.ke
1.6	The Authorized Representatives are: For KPLC: Project Manager, Admin & Property
2.1	The date on which this Contract shall come into effect is upon execution by both parties
2.2.2	The Starting Date for the commencement of Services is as per clause 6 of the contract agreement
2.3	The Intended Completion Date is 24 months after the commencement date
2.5.3	Value Engineering is not applicable in this contract
2.6.5	PPCBL @ 0.003 and withholding @ 0.5 will be deducted from the collection payment for goods supplied.
3.2.3	Activities prohibited after termination of this Contract are: N/A
3.4	The Service Provider shall be responsible for and keep in force current appropriate insurance covers for its property and persons engaged in performance and or provision

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	of the Services under the contract. The Service Provider shall insure itself and KPLC against any costs of damage to KPLC and any and all claims by third parties (including and without limitation to the employees of the Service Provider) arising out of or in any way directly or indirectly connected with this Contract and/or arising out of or so connected with the services rendered by the Service Provider. Such insurance shall be with a reputable insurance company in Kenya and shall be in terms and against such risks as KPLC may from time to time require. The service provider shall provide KPLC on demand with copies of all policies and of all the receipts for premiums in respect of insurance under this Clause. The risks and coverage by insurance shall be: i. Third Party liability ii. Procuring Entity's liability and workers' compensation iii. Loss or damage to equipment and property
3.5(d)	The Service Providers Actions Requiring KPLC's Prior Approval The Service Provider shall obtain KPLC prior approval in writing before taking any of the following actions; a) Entering into a subcontract for the performance of any part of the Services b) Appointing such members of the Personnel not listed by name in Appendix C (Key Personnel and Subcontractors) c) Changing the program of activities
3.7	Documents Prepared by the Service Provider to be the property of KPLC 1. The Service Provider shall not, without KPLC's prior written consent, disclose the contract, or any provision thereof or any specification, service requirement, plan, drawing, pattern, sample, report or information furnished by or on behalf of KPLC in connection therewith, to any person other than a person employed by the Contractor in the performance of the contract. 2. The Service Provider shall not, without KPLC's prior written consent, make use of any document or information enumerated above. Any document, other than the contract itself, enumerated in Sub Clause (a) above shall remain the property of KPLC and shall be returned (including all copies) to KPLC on completion of the Contractor's performance under the contract if so required by KPLC. _____
3.8.1	The liquidated damages rate is ***0.5%*** per day The maximum amount of liquidated damages for the whole contract is ***10%*** percent of the final Contract Price.
3.8.3	The percentage to be used for the calculation of Lack of performance Penalty(ies) is

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Twenty Percent (20%)
3.9	1. Within fourteen (14) days of the date of the notification of contract award, the Service provider shall furnish to KPLC the Performance Security which shall be either one or a combination of the following: - a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document. b) Confirmed Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC including confirmation charges shall be prepaid by the successful Tenderer. Certain mandatory conditions of the LC shall be as prescribed in the Performance Security Form (LC) in the Tender Document. 2. The Performance Security shall be issued by a commercial bank licensed by the Central Bank of Kenya. The bank must be located in Kenya. 3. **The Performance Security shall be the sum of ten percent (10%) of the contract price. It shall be in the currency of the contract price.** 4. Failure of the Service provider to furnish the Performance Security, the award shall be annulled and the Tender Security forfeited, in which event KPLC may notify the next lowest evaluated Tenderer that its Tender has been accepted. 5. The proceeds of the Performance Security shall be payable to KPLC as compensation for any loss resulting from the Service provider's failure to comply with its obligations in accordance with the contract without KPLC being required to demonstrate the loss it has suffered. 6. The Performance Security shall be valid for a minimum of sixty (60) days after satisfactory delivery for both Foreign and Local Service providers. 7. KPLC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Service provider to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed five (5) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Service provider's Performance Security may be deemed as invalid and the Contract nullified, unless information to the contrary is received by KPLC two (2) days before the expiry of the Service provider's Tender Security. 8. Subject to the provisions of this contract, the Performance Security will be discharged by KPLC and returned to the Service provider not earlier than sixty (60) days following the date of completion of the Service provider's obligations under the contract, including any warranty obligations, under the contract.
5.1	The assistance and exemptions are not applicable in this contract
6.3.2	The performance incentive are not applicable in this contract
6.4	1. Contractor shall request for payment by submitting invoice(s), delivery note(s) and any other relevant documents as specified by KPLC upon Supply, Installation, Test

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Servicing and Maintenance. In addition to quarterly service and maintenance as scheduled, submission of all required documents. 2. Credit period shall be thirty (30) days and thereafter payments shall be made promptly by KPLC thirty (30) days after delivery and submission of invoice together with other required and related documents or as otherwise prescribed in the contract. 3. Where KPLC rejects Goods and Related Services, in part or wholly, KPLC shall promptly inform the Contractor to collect, replace or rectify as appropriate and give reasons for rejection. The Contractor shall submit a fresh invoice, delivery note and any other relevant documents as specified in the SCC. 4. The currencies in which payments shall be made to the Contractor under this Contract shall be those in which the Tender price is expressed. 5. Payment shall primarily be through KPLC's cheque or Real Time Gross Settlement (RTGS) for local based Contractors or Telegraphic Transfer (TT) for foreign based Contractors. 6. Contractors who are to be paid through RTGS or TT must ensure that they submit the following: i. invoice containing the Bank's Name and Branch, ii. Name/Title of Bank account, iii. Bank account number iv. SWIFT CODE. v. A letter signed by the authorized signatory of the bank account of the Tenderer confirming details (a) to (d) above. This letter must contain the name of that authorized signatory and a Board Resolution that is sealed. 7. Where applicable, a copy of a valid Performance Security, stamped, certified as authentic by KPLC, shall form part of the documents to be presented to KPLC before any payment is made. 8. The terms shall be strictly on Delivered and Duty Paid (DDP) 9. Contractors who request for a Letter of Credit (hereinafter abbreviated as LC) – i. shall submit proforma invoices containing the advising Bank's Name and Branch, Name/Title of Bank account, Bank account number and the SWIFT CODE; where required, proposed confirming bank; LC validity period and any other details that may be required to facilitate this process. ii. Shall meet all the LC bank charges levied by both its bank and KPLC's bank as well as any other bank that is a party to the LC. iii. Any extension and or amendment charges and any other costs that may result from the Contractor's delays, requests, mistakes or occasioned howsoever by the Contractor shall be to the Beneficiary's account. iv. The maximum number of extensions and amendments shall be limited to two (2).

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	v. Notwithstanding sub-clause (a) above, should the Contractor require a confirmed LC, then all confirmation and any other related charges levied by both the Contractor's and KPLC's bank as well as any other bank party to such confirmation shall be to the Beneficiary's account. vi. LCs shall be - a. partial for partial performance b. opened only for the specific deliveries in accordance with the delivery schedule indicated in the Official Purchase Order or any formal note amending that Order. c. revolving subject to the maximum annual value of total quantity indicated in the Official Purchase Order d. without prejudice to any other provision of the contract, valid for a maximum period of one year. 10. KPLC shall have the sole discretion to accept or decline any Contractor's payment request through Letters of Credit without giving any reason for such decline. 11. Interest payment by KPLC is inapplicable in this contract.
6.5	Interest on delayed payments is not applicable to this contract
6.6.1	Price adjustment is Not Applicable to this contract
7.1	1. KPLC or its representative(s) shall have the right to inspect the services to confirm their conformity to the Contract. KPLC shall notify the Contractor in writing in a timely manner, of the identity of any representative(s) retained for these purposes. Such visit and or inspection shall in no way prejudice KPLC's rights and privileges. 2. In appropriate circumstances, Inspection/ Test Report(s) shall be completed upon conclusion of the inspection/ tests. 3. The inspections and tests may be conducted in the premises of the Contractor or its subcontractor(s). If conducted on the premises of the Contractor or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to KPLC. 4. Should any inspected services fail to conform to the Contract requirement, KPLC may reject the Service(s), and the Contractor shall either remedy the rejected services or make alterations necessary to meet Contract requirements free of cost to KPLC. 5. KPLC's right to inspect, and where necessary, reject the services after provision shall in no way be limited or waived by reason of the services having previously been inspected and passed by KPLC or its representative(s) prior to the services performance / delivery. 6. For the avoidance of doubt, any acknowledgement by KPLC on the Contractor's or sub-contractor's document shall not be conclusive proof or evidence of satisfactory performance without duly authorized approval by KPLC. The Defects Liability Period is *7 Days*.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
9.1	The designated Appointing Authority for a new Adjudicator is Shall be the Chaiman, Chartered Institute of Arbitrators (CIArb)
9.2	The Adjudicator is Chairman - Chartered Institute of Arbitrators Branch The Adjudicator shall be paid bu the hour at the rate prescribed by the **Chartered Institute of Arbitrators** together with reimbursable expenses of the type's a**greed upon by parties**, and the cost shall be divided equally between the KPLC and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

Appendices

Appendix A - Description of the Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by KPLC, etc.

Appendix B - Schedule of Payments and Reporting Requirements

List all milestones for payments and list the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here "Not applicable."

Appendix C - Subcontractors

List under: C-1 List of approved Subcontractors (if already available); same information with respect to their Personnel as in C-1.

Appendix D – Breakdown of Contract Price *List here the elements of cost used to arrive at the breakdown of the lump-sum price. This appendix will exclusively be used for determining remuneration for additional Services.*

Appendix E - Services and Facilities Provided by KPLC

Section X - Contract Forms

Table of Forms

1. PERFORMANCE SECURITY OPTION 1– (Unconditional Demand Bank Guarantee)
2. PERFORMANCE SECURITY OPTION 2– (Performance Bond)
3. ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]
4. BENEFICIAL OWNERSHIP DISCLOSURE FORM

FORM NO. 1 - PERFORMANCE SECURITY - (Unconditional Demand Bank Guarantee)

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of* KPLC*]*

Date: *[Insert date of issue]*

PERFORMANCE GUARANTEE No.:_____

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that_____(herein after called" the Applicant") has entered into Contract No._____*[dated]*_____with the Beneficiary, for the execution of___(herein after called" the Contract").

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

3. At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of__( ),[1] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

4. This guarantee shall expire, no later than the.....Day of.....2.....[2], and any demand for payment under it must be received by us at this office indicated above on or before that date.

5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

_____

_____

[Name of Authorized Official, signature(s) and seals/stamps]

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

FORM No. 2 - PERFORMANCE SECURITY OPTION 2 - (Performance Bond)

[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[insert name and Address of* KPLC*]* **Date:** _____ *[Insert date of issue]*

PERFORMANCE BOND No.: _____

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond _____ as Principal (hereinafter called "the Contractor") and _____*]* as Surety (hereinafter called "the Surety"), are held and firmly bound unto _____ _____*]* as Obligee (herein after called "KPLC") in the amount of _____ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS the Contractor has entered into a written Agreement with KPLC dated the _____ Day of _____, 20, for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are herein after referred to as the Contract.

3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by KPLC to be, in default under the Contract, KPLC having performed KPLC's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

    1) Complete the Contract in accordance with its terms and conditions; or

    2) Obtain a tender or tenders from qualified tenderers for submission to KPLC for completing the Contract in accordance with its terms and conditions, and upon determination by KPLC and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and KPLC and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the

Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by KPLC to Contractor under the Contract, less the amount properly paid by KPLC to Contractor; or

3) Pay KPLC the amount required by KPLC to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than KPLC named herein or the heirs, executors, administrators, successors, and assigns of KPLC.

6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day of 20 .

SIGNED ON on behalf of

By in the capacity of In the

presence of SIGNED ON on behalf

of

By

i

n the capacity of In the presence of

FORM NO. 3 - ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]Not applicable.

[Guarantor letterhead or

SWIFT identifier code]

[Guarantor letterhead or

SWIFT identifier code]

Beneficiary:_____*[Insert name and Address of* KPLC*]* **Date:**_____*[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]* **Guarantor: [***Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that_____(herein after called "the Applicant") has entered into Contract No._____*dated* with the Beneficiary, for the execution of (herein after called" the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____() is to be made against an advance payment guarantee.

3. At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of__()[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

   a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or

   b) Has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number at_____.

5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the day of, 2,[2] whichever is earlier. Consequently, any demand for payment under this guarantee must be

received by us at this office on or before that date.

6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year],* in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

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

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[1]*The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to KPLC.*

[2]*Insert the expected expiration date of the Time for Completion. KPLC should note that in the event of an extension of the time for completion of the Contract, KPLC would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, KPLC might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.

Tender Reference No.:_____

_____[*insert identification no*] Name of the

Tender Title/Description:_____*[insert name of*

the assignment] to:_____*[insert complete name of Procuring Entity]*

In response to the requirement in your notification of award dated__*[insert date of notification of award]* to furnish additional information on beneficial ownership:__*[select one option as applicable and delete the options that are not applicable]*

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

	Details of all Beneficial Owners		**% of shares a person holds in the company Directly or indirectly**	**% of voting rights a person holds in the company**	**Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer** (Yes / No)	**Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)**
1.	Full Name		Directly---------- % of shares Indirectly---------- % of shares	Directly…… ……. % of voting rights Indirectly---------% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?:	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No---- 2. Is this influence or control exercised directly or
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality					
	Date of birth					

	Details of all Beneficial Owners		**% of shares a person holds in the company Directly or indirectly**	**% of voting rights a person holds in the company**	**Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer** (Yes / No)	**Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)**
	[dd/mm/yyyy]				Direct…… …… Indirect…… ……...	indirectly? Direct…….. Indirect……
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
2.	Full Name		Directly---------- % of shares Indirectly---------- % of shares	Directly…… ……. % of voting rights Indirectly---------% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct…… …… Indirect…… ……...	1. Exercises significant influence or control over the Company body of the Company (tenderer**)** Yes -----No---- 2. Is this influence or control exercised directly or indirectly? Direct…….. Indirect……
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth *[dd/mm/yyyy]*					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
3.						
e.t.c						

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

(a) holds at least ten percent of the issued shares in the company either directly or indirectly;

(b) exercises at least ten percent of the voting rights in the company either directly or indirectly;

(c) holds a right, directly or indirectly, to appoint or remove a director of the company; or

(d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer: .....[insert complete name of the Tenderer]*_____

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

Designation of the person signing the Tender: ..... [insert complete title of the person signing the Tender]

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

Date this ..... [insert date of signing] day of..... [Insert month], [insert year]

Bidder Official Stamp

ANNUAL SERVICE LEVEL AGREEMENT

BETWEEN

KENYA POWER & LIGHTING COMPANY LTD

AND

SERVICE LEVEL AGREEMENT

THIS AGREEMENT made this**……**day of**……**2026 **BETWEEN THE KENYA POWER & LIGHTING COMPANY LIMITED**, a limited liability company duly incorporated under the Companies Act, Chapter 486 of the Laws of Kenya, with its registered office situated at Stima Plaza, Kolobot Road, Parklands, Nairobi in the Republic of Kenya and of Post Office Box Number 30099-00100, Nairobi in the Republic aforesaid *(hereinafter referred to as the "KPLC")* of the one part,

AND

……, situated at ……..., Plot No. …..., ……. Road ……, Kenya a duly registered entity according to the laws of Kenya and of Post Office Box Number **…….NAIROBI**, Kenya Republic aforesaid, (hereinafter referred to as the "Contractor") of the other part;

WHEREAS

1. KPLC invited tenders for the services of Provision of Service and Maintenance Services for Air Conditioning Units in the Bill of quantities and price schedules and schedule of service, **KP1/9A.2/OT/024/ADM/26-27**

2. KPLC has accepted the Tender by the Contractor for the Support Services in the sum of _____inclusive/exclusive of any taxes **(*hereinafter called "the Contract Price"*).**

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -

1 DEFINTION OF TERMS

1.1 Agreement Date means- the date of signing this contract
1.2 Cycle time- The time taken between opening and closing a service call
1.3 Equipment means- AIR CONDITIONING UNITS as detailed in **appendix A**
1.4 FRU - Field Replacement Unit (local spare parts).
1.5 Help desk means- the Contractor appointed phone number for placing service calls
1.6 Response time- the time taken after receiving a service call to the time reaching the company site or remotely connecting to the system
1.7 Support & maintenance means- maintenance of the above equipment
1.8 Support Engineer means-the Contractor appointed qualified AIR CONDITIONING UNITS and FANS Technical staff
1.9 Service call- report of a fault, in any of the system components
1.10 Service- means any service provided by the Contractor for the support and Maintenance of the AIR CONDITIONING UNITS and FANS .

1.11 The parties means- the company and the Contractor

1.12 Total loss – a case whereby a unit cannot be repaired or the cost of repair is more than 70% of the cost of a new unit of the same nature.

1.13 Working days - any day (except Saturday and Sunday or other gazette public holidays in Kenya) between the hours of 0830 hours and 1730 hours.

1.14 Call out-Any other day or time not defined as working hours.

2. SUPPORT AND MAINTENANCE SERVICE

2.1 The support and maintenance services shall be provided during working hours and on working days unless on special call out.

2.2 The maintenance services shall consist of repairing faulty equipment, part of this contract (as detailed in **Appendix B**), carrying out of inspections, preventive, corrective and routine maintenance (which include hardware and software support, maintenance services, and programming), firmware and software upgrades and bug fixes, diagnosis and the repair or replacement of parts made necessary by normal wear and tear.

2.3 The Contractor shall use its best endeavors to respond promptly after a service call for maintenance or support services has been made by the company.

2.4 FAULT CATEGORISATION

2.4.1 Severity Level One (1)

This is defined as a failure, which denies or severely limits users' access any service from an equipment. The equipment at this level is not functioning at all.

The following are examples of this kind of failure:

- Total inability of a System functioning. Dead System.
- Equipment failure that impacts more than 50% of the Equipment functionality.
- Power Failure which renders equipment nonfunctional.

Response Time:

The Contractor engineer will respond within four hours (4 hr.) of the initial service call for support being received by the Contractor.

With first line intervention from one of the staff in every branch who will be trained on how to handle emergencies before Contractor engineer reaches the site.

2.4.2 Severity Level Two (2)

This is defined as a failure that results in diminished usage the equipment.

The following are examples of this kind of failure:

- Failure of some parts of the equipment like some buttons, cooling, heating etc.
- Failure of any complete sub-system

Response Time:

The Contractor will respond within eight hours (8 hrs.) of the initial service call for support being received by the Contractor.

2.4.3 Severity Level Three (3)

This is defined as a request from the KPLC for clarification regarding procedural problems.

Instances that would fall within this category would be, for example:

Inability to operate the remote, minor leakages etc.

Common equipment failure that impacts less than 50% of the AIR CONDITIONING UNITS functionality.

Any failure that affect the sites and impact less than 50% of its operation

Response Time

The Contractor's Engineer will be online with the KPLC representative within three (3) days of the initial request for support being received by the Contractor

2.4.4 Severity Level Four (4)

Minor failures or failure of equipment that does not affect the operation of the system, such as:

Failure of redundant components

Minor alarms in the system

Wrong date and time format

Noisy parts.

Response Time:

The Contractor's Engineer will be online with the KPLC Representative within seven (7) days of the initial request for support.

2.5 REPORTED INCIDENT ESCALATION PROCEDURES-

2.5.1 The Company may escalate incidents if they have not been resolved within the stipulated times as follows;

Escalation Level	**Escalation Point (Contact)**
1st Level	**Name and number**
2nd Level	**Name and number**
3rd Level	**Office: Tel**: email address

2.5.2 The Company will escalate the reported incident if the resolution times indicated below have been exceeded;

	Time in Hours		
Fault Category	**1st Level escalation**	**2nd Level escalation**	**3rd Level escalation**

Severity Level One (1)	4	8	12
Severity Level Two (2	8	24	36
Severity Level Three (3)	24	48	72
Severity Level Four (4)	48	72	96

2.5.3 Maintenance of the Company AIR CONDITIONING UNITS

Unscheduled Maintenance – where the contractor needs to attend to an emergency/urgent maintenance activity outside the scheduled/ Planned maintenance, Contractor shall issue a Request Notice to the Company one (1) day in advance. Immediately

Planned/Scheduled Maintenance - Where the Contractor requires to conduct a planned maintenance activity the Contractor shall issue a Request Notice to the Company ten (10) days in advance.

When undertaking maintenance of any nature the Contractor shall ensure that connectivity is maintained.

2.5.4 Access by Contractor

The Contractor will be required to notify the Company of the need to access the Company facility through the Administration services contacts, call centre or through KPLC point of contact for this SLA.

KPLC Contacts.

	NAME	**CONTACT**	**REGION**

See Appendix A for Regional Contacts

Access Type	**Notification Time**
Routine Maintenance	2 working days
Emergency Access	Immediately

The Contractor will be required to provide the following information;

i. Time and date when access is required
ii. Whom to be granted access (Name and National ID. Number)
iii. Description of works

2.5.5 Incidence Resolution Times

The **Contractor** shall resolve the reported incident as indicated in the table below;

Fault category	Incidence Resolution Time
Severity Level One (1)	4 hours
Severity Level Two (2)	12 hours
Severity Level Three (3)	24 days
Severity Level Four (4)	96 days

3. SERVICE CREDITS

a. The **Company** shall impose Service Credits if the Contractor fails to meet the agreed Service Availability requirements.

b. **Service Credits shall be deducted from Operation & Maintenance Charges before payment is made to the Contractor.**

c. **Service** Credits shall be imposed in the manner shown in the following table.

Service Levels	Resolution time per incident in hours	Service Credit KSHS per Incident
Severity Level one (1)	**0-34**	**Nil**
	34-48	**0.5% of annual Contract sum**
	48-	**0.1 % of Annual Contract Sum per day. To a maximum of 5 days**
Severity Level Two (2)	**72**	**Nil**
	72-96	**0.5% of annual Contract Sum**
	96-	**0.1% of Contract sum per day To a maximum of 7 days**
Severity Level Three (3)	**5 working days**	**Nil**
	5-7 working days	**0.5% of total contract sum**
	Above 7working days	**0.1% of total contract sum per day To a maximum of 10 days**
Severity Level four (4)	**14 days**	**Nil**
	14-18	**0.1% of total annual contract sum**
	18-	**0.5 % of total annual contract sum per day To a maximum of 20 days**

Service Credits shall be deducted subject to section 3 c above with respective tax.

4. DURATION

4.1 The contract shall continue to be in force for the initial period of two (2) years, and may be renewed unless terminated by either party, upon issue of written notice of not less than

three (3) months.

4.2 Either party shall have the right to terminate or suspend its obligations under the contract if the other party defaults in the performance of any obligation under the contract; subject to any default if capable of being remedied continues for over 7 days from written notification by the other party, or the other party becomes insolvent, has a receiver appointed for its business or compulsion or voluntary wind up.

5. COMMENCEMENT

This Agreement shall commence on the date specified on the contract.

6. LAW AND CONSTRUCTION

6.1 This agreement shall be governed by Kenyan Law and the parties consent to the exclusive jurisdiction of the Kenyan Courts in all matters relating to this Agreement.

6.2 The headings of the conditions are for convenience of reference only and shall not affect the interpretation.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto the day and year first hereinabove written.

SIGNED

On behalf of Kenya Power & Company Ltd

SIGNED by the……...

On behalf of Contractors name

SIGNED by the…….

APPENDIX A

AIR CONDITIONING UNITS

REGIONAL CONTACTS				
NO.	**REGION**	**CONTACT PERSON**	**CONTACT DETAILS**	**LOCATION**
	LOT 1			
1	COAST			E-House Mombasa
	LOT 2			
1	NAIROBI			E-House Nairobi
2	SOUTH NYANZA			Sansora Plaza
3	NORTH EASTERN REGION			Thika Office
4	NORTH RIFT			KVDA Plaza - Eldoret
5	CENTRAL RIFT			E-House Nakuru
6	CENTRAL OFFICE			Stima Plaza
	WEST KENYA REGION			E-House Kisumu
9	MT. KENYA REGION			Stima House Nyeri

APPENDIX B

DETAILED DESCRIPTION OF THE PROPOSED MAINTENANCE CONTRACT FOR AIR CONDITIONING UNITS

2. INTRODUCTION

Kenya Power has installed Air Conditioning Units wide spread across the country.as per schedule. The company seeks to put into place both preventive and curative service and maintenance contract to ensure the Air Conditioning Units remain efficiently operational.

3. SYSTEM CAPACITY

The system that will be entered into the proposed Service Level agreement shall comprise of the equipment listed in the schedule of equipment and service.

4. SCOPE OF SERVICE AND MAINTENANCE

This will be as described in the Schedule of service, Price schedule of service (Bill of quantities) detail of service and maintenance as well as the Service level agreement attached in Appendix A.

5. DETAILS OF MAINTENANCE CONTRACT

The contract will comprise of Preventive and Curative maintenance as detailed in below, schedule of requirement and bills of quantities (Price schedules).

4.1 PREVENTIVE MAINTENANCE REQUIREMENTS

Preventive maintenance will involve the following:

- Cleaning of filters for indoor units
- Replacement of any damaged air filters for indoor units
- Cleaning the evaporator and combing the evaporator fins
- Cleaning the condensers and combing the condenser fins
- Pressure testing and rectifying gas leakages together with charging of gas refrigerant
- Checking and rectifying or replacing as necessary electrical controls including overload relays, control circuits boards, Automatic Voltage Switchers (AVS) etc after verification by KPLC
- Replacement of compressors if defective
- Replacement of condenser and evaporator fans if defective
- Clearing blockages and setting levels for the condensate drainage piping
- Replacement of condensate pumps for cassette units where defective
- Relocation of air conditioners to new sites
- Room tuning to ensure no leakages
- Provide inspection stickers on every air conditioner with date of inspection/service. Technicians name, remarks and next inspection service
- Provide serial numbers and location of all air conditioners after every quarterly service

- Any addition or omission to the number of existing air conditioner in the signed service contract shall be agreed with the service provider before service can be extended or reduced beyond existing quantity of air conditioning units in the contract
- Replacement must be approved and confirmed by the client before payment (see Appendix A)
- At the end of each twelve (12) months of the term hereof the following additional work should be carried out -
- Check the compressor for proper operation
- check the outdoor fan motor blade balancing
- Check all parameters on program within the Master Card board interface
- Give a report to the client on general performance
- Repaint the bracket of the outdoor unit
- Re-check all the arm flex insulation for copper heat protection
- Avail the last expenses on repair works per quarter
- Other tests that may be necessary to establish good working condition of units

Any addition or omission to the number of existing air conditioner in the signed service contract shall be agreed with the service provider before service can be extended or reduced beyond the existing quantity of air conditioning units in the contract.
Replacement must be approved and confirmed by the client before payment
(See Appendix A)

At the end of each 12 months of the term here of the following additional work should be carried out -

- Check the compressor for proper operation
- Check the outdoor fan motor blade balancing
- Check all parameters on program within the master card board interface
- Give a report to the client on general performance
- Repaint the bracket of the outdoor units
- Re-check all the arm flex insulation for copper heat protection
- Avail the last expenses on repair works

4.1.1 **Scheduled quarterly servicing and maintenance (SQSM)**

This will involve checking the system after every three months within a year.
Service provider (SP) will have an expert travel and visit the site(s) premises as per the schedule.

During his working travel the expert will perform a technical check-up of the entire system which will involve the following:

- Visual inspection of the system
- Carrying out test drives and noting down all relevant test parameters like voltages, currents, Gas levels, resistance, power, temperatures among others
- In the event of malfunctioning of the system, provide or define remedy actions to rectify the faults.
- Generate a detailed service report which will summarize all actions taken

4.1.2 Training/Knowledge transfer

Technical support team and operators shall be taken through trainings during inspections and major services to enhance their knowledge on the system as well as help them cope with emerging trends in the field.

The Contractor will provide a technical and operational training to KPLC technical personnel. The training will cover maintenance of 1st and 2nd line. The training will be on the job training conducted during preventive maintenance visits and will include theoretical and practical sessions. A document listing topics covered in the training and signed by the trainees shall be submitted to KPLC. KPLC shall nominate the trainees and notify the Contractor.

4.1.3 24x7 remote technical support.

The service provider will establish a mechanism to offer remote support services to the systems at all the times.

4.2 CURATIVE MAINTENANCE REQUIREMENTS

Curative maintenance will involve the following:

- Emergency on-site intervention.
- 24x7 remote technical support.
- Repair & Return to operations faulty parts or system
- Replacement of spare parts.
- Replacement of Consumables

4.2.1 Emergency on-site intervention

In the case of a System breakown ,when failure can't be fixed locally, nor via phone or online, the service provider will immediately send the technical team to rectify the faults on site,which categorized as a Severity 1 failure (no communication/video signal).

4.2.2 24x7 remote technical support

The SP shall provide a central contact point whose objective is to support all emerging system issues or faults. The contact point will either be through a telephone system or through an online support mechanism.

4.2.3 Repair & Return to operations faulty parts or system

Any faulty component or sub-system of the system will be repaired as per the repair and maintenance procedure and in accordance with fault severity levels requirements.

The Contractor will either repair or replace all repairable components down to component level, for equipment, regardless of the frequency of failures or the number of failed units

4.2.4 Replacement of spare parts

Replacement of spare parts or components of the system shall be done within the shortest time possible in accordance to the existing contract requirement or in accordance with the procurement procedures if the damage goes beyond the scope of the contract.

Contractor shall provide KPLC with a list of critical items to improve the service. The same items will be held by the Contractor as dedicated spare parts for this SLA.Replacement must be approved and confirmed by client before payment.

4.2.5 Replacement of consumables

The contractor shall include in his prices in the price schedule the cost of all replaceable/refillable consumables per IEE standards as regards to regular service and maintenance of Air Conditioning Units.

NB: No separate charges shall be judged with regards to consumables. The amount shall be covered under SQSM as described in price schedule of service (Bill of quantities)

4.3 Drive Test and Optimization

In case of coverage issues and related performance de-gradation of the system the Contractor engineer will conduct a drive test in the coverage area as part of the periodical visit and will issue a report advising on course of actions required for optimizing the system, for reaching to the highest RF coverage performance.

4.4 Performance Reports

Using statistical information generated by the systems, Performance Management Reports for the system shall be collected, data including (but not limited to) site, and usage. The data is then summarized and carefully analysed to spot trends, such as consistent busies, to help customers make informed operational decisions based on system performance. This is to be done quarterly a year.

Job cards must be signed off at the regions while reports shall be signed off by project manager after confirmation of job cards.

5. CONTRACTOR'S OBLIGATIONS

5.1 Throughout the period of this contract, the Contractor shall provide support, in relation to the hardware and/or software support.

5.2 The Contractor shall provide preventive maintenance service, which will consist of carrying quarterly service checks per year to ensure that the equipment's operation conforms to the manufacture's specification. This will include running the manufacture's diagnostic tests designed to test each individual item of equipment and/or other such test which the Contract regard as necessary and/or satisfactory to test the equipment.

5.3 The Contractor shall carry out repair services to the equipment as may from time to time be necessary to remedy defects in or breakdowns of the equipment.

5.4 The Contractor shall provide all software support and maintenance as well as software upgrades installation, re-installing and/or re-configuring software to the point of program operation and/or data and program backups or restoration as and when necessary.

5.5 All equipment sent for repair in the contractor's work-shop will be repaired, free of charge, within three working days. If the faulty equipment cannot be repaired within the agreed repair time, the contractor shall commit himself to supply the company with an Equivalent at no charge. The said equipment is to be returned to the contractor, in perfect working conditions (save for normal wear and tear that will reasonably arise out of use) once the original equipment has been repaired and returned. The contractor will bear the full cost of labor and the company will bear the cost of part replacement as per tender requirements.

5.6 Should the contractor receive equipment for service in a Total Loss condition (Non economical repair), it will notify the Company as soon as possible giving details of repair costs, and will NOT be obligated to repair such equipment. Declaring an Equipment to be a "TOTAL LOSS" is the sole decision of the Contractor.

5.7 Damage caused by normal wear and tear will not be covered by this contract and if repaired will be invoiced separately. These will be limited to broken/missing parts. The Contractor shall assess and cost the repair free of charge and seek approval from KPLC before undertaking repairs.

5.8 The Contractor shall be obligated to replace consumable as per the bill of quantities. The Contractor shall provide a price list for these items at the commencement of the contract and be valid for the duration of the contract.

5.9 The Contractor service desk shall issue the Company with a call reference number with which the reported incident shall be tracked until it is resolved to the satisfaction of the company.

5.10 The Contractor will respond to a service call placed by the Company and recorded by the Contractor help desk personnel, within the agreed response times.
The Contractor will use its best endeavors to resolve any problem within the minimum time possible and not more than stipulated escalation/response time.

5.11 The Contractor shall keep records of service calls including but not limited to the dates and time of reporting of breakdowns and their resolution, signature of a KPLC representative, nature of fault and actions taken.

6. THE COMPANY'S OBLIGATIONS

To facilitate the provision by the Contractor of maintenance and support services the Company shall:

6.1 Keep and operate the systems and peripherals in a proper and prudent manner and

ensure that only competent employees are allowed to operate them.

6.2 Use the systems and peripherals in a suitable environment and in accordance with manufacturer's instructions and advice of the Contractor.

6.3 Ensure that all hardware and software are registered by the relevant regulatory authorities as appropriate and equipped with the relevant user manuals, as supplied by the original equipment manufacturers.

6.3 Co-operate with the Contractor and do all in its power to assist to restore the equipment back to the working condition.

6.4 Make sure that during the contract period, no personnel other than the Contractor personnel shall conduct any repairs and/or installations, and or any other action to the equipment, except data backup and any other action done by the company's technical manager and approved in advance by the Contractor. Any such attempt will lead to the loss of manufacturer warranty and any Contractor responsibility for the said equipment.

6.5 Enable and allow the Contractor to remotely connect to the system for remote diagnostics, software update and repair.

6.6 The company will pay the Contractor in accordance with the provisions of clauses 6.1 and 6.2 at the immediately after completion of every quarter and upon presentation of the relevant service reports, Job cards and Invoices and not later than 30 days from the date of issue of any invoice.

7. PERFORMANCE

7.1 The Contractor guarantees that the system repair cycle time of any fault will not exceed 3 working days in 90% of the cases.

7.2 All incidents that require the Contractor's visit to the customer premises or equipment repair in the Contractor workshop, shall be recorded on the Contractor's job cards or work ticket and must be signed by the Company's authorized personnel. The job card will give details, and indicate among other details, actual arrival time, problem diagnosed, resolution provided, departure time and any Company representative comments.

8. CONFIDENTIALITY

The Contractor, its employees, agents and or independent contractors acknowledge that in dealing with the Company pursuant to this agreement, it may come across information,

which is confidential and proprietary to the Company, disclosure or use of which might result in damages or loss to the company business or affairs of the Company. It is therefore agreed that the Contractor shall keep all such information confidential and will not disclose the same without the prior written consent of the customer. For the avoidance of doubt, it is agreed that the provisions of this clause shall survive the termination of this Agreement.

9. ARBITRATION

Any dispute, controversy or claim arising out of or relating to this agreement or termination thereof or the interpretation of any of its clauses or breach or validity hereof shall be resolved by way shall begin immediately after either of the parties has delivered to the other a written request for such consultation. If within fifteen (15) days following the date on which such a notice is given the dispute cannot be resolved, the dispute controversy or claim shall be referred to a single arbitrator to be agreed upon by the parties or in default or agreement to be nominated by the Chairman for the time being of the Law Society of Kenya.

Such arbitration shall be in accordance with the provisions of the Arbitration Act, 1995 as amended from time to time.

10. NOTICES

Any Notice required to be given under this Agreement shall be given in writing and shall be delivered by hand or sent by recorded delivery post to the address of the addressee contained in this Agreement or as notified in writing to the other party as its address for the service of notices.