REPUBLIC OF KENYA

COUNTY GOVERNMENT OF BARINGO

TENDER NAME: SUPPLY OF FOOD STUFF (E.G. BEEF, GOAT MEAT, MUTTON, CHICKEN, EGGS, FRUITS, VEGETABLES, DRY FOODS E.G. (MAIZE, BEANS & RICE ETC) AND NON FOOD ITEMS FOR HOSPITAL & OTHER OFFICES

BARINGO COUNTY

TENDER NO. BRCG/TNR/008/2024-2025

-

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

SEPTEMBER, 2024.

CLOSING DATE: 24TH SEPTEMBER, 2024

AT 12.00NOON EAT

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INVITATIONTOTENDER

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

30400 KABARNET.

CONTRACT NAME AND DESCRIPTION: Supply Of Food Stuff (E.G. Beef, Goat Meat, Mutton, Chicken, Eggs, Fruits, Vegetables, Dry Foods E.G. (Maize, Beans & Rice Etc) and non-Food Items

Tendering will be conducted under open competitive method (National) using a

standardized tender document. Tendering is open to all qualified and interested

Tenderers.

1. Qualified and interested tenderers may obtain further information during office hours (8.00 AM-5.00 PM at the address given below. Supply Chain Management office located at the AFC BUILDING during normal working hours or visit our website at www.baringo.go.ke

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

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

4. The Tenderer shall chronologically serialize all pages of the tender documents submitted.

5. Completed tenders must be delivered to tender box situated at County Treasury AFC Building Kabarnet

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

7. Late tenders will be rejected.

8. The address referred to above are:

A. Address for obtaining further information:

1) Name of Procuring Entity: Baringo County Government

2) Postal Address box 53-30400 Kabernet

B. Address for Submission of Tenders.

1) Director, Supply Chain Management

Baringo County Government,

P.O Box 53-30400,

Kabarnet

C. PHYSICAL ADRESS: Supply Chain Management office located at the AFC BUILDING Kabarnet Town during normal working hours or visit our website at www.baringo.go.ke

D. All tenders MUST be submitted MANUALLY ON OR BEFORE TUESDAY 24TH SEPTEMBER, 2024 12.00 NOON EAST AFRICA TIME.

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

Name _____

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

Designation

_____

Signature

_____

Date_____

PART1 - TENDERING PROCEDURES

SECTIONI: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

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

1.2 Throughout this tendering document:

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

b) If the contexts require, " singular" means "plural" and vice versa;

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

2. Fraud and Corruption

2.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 6 2 "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.

2.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and /or civils auctions 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.

2.3 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, the Procuring Entity shall indicate in the **Data Sheet** 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. Eligible Tenderers

3.1 A Tenderer may be arm that is a private entity, an individual, a state-owned enterprise or institution subject to IT T3 .7, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the in tent to enter into such an agreement supported by a letter of in tent. Public employees and their close relatives *(spouses, children, brothers, sisters and uncles and aunts)* are not eligible to participate in the tender.

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.**

3.2 Public Officers of the Procuring Entity , 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 .Public Officers are also not allowed to participate in any procurement proceedings.

3.3 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 -representative or ownership as another Tenderer; or
d) has a relationship with another Tenderer, directly or through common third parties, that put sit in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding gender processer affiliates participated as a consultant in the preparation of the design or technical specifications of the goods that are the subject extender; or
e) any of its affiliates has been hired (or proposed to be hired) by the Procuring genitor Procuring Entity for the Contract implementation
f) would be providing goods, works, or on-consulting services resulting from or directly related to consulting services for the preparation or implementation of the projects preceding the TDSITT1.1 that provide or were provided by any affiliate that directly or indirectly controls ,I controlled by ,or asunder common control with that firm; or has a close business so family relationship with a professional staff o the Procuring Entity(or of the project implementing agency, who:(I)are directly or indirectly involved in the preparation of the tendering documenter specifications o the Contract, and/or the Tender evaluation process so such Contract; or(ii)would be involved in the implementation or supervision of such Contract tuneless the conflicts teeming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the Tendering process and execution of the Contract.

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved in any of these practices shall be automatically disqualified.

3.5 A firm that is a Tenderer (either individually or as a JV member) shall not submit more than one Tender, except for permitted alternative Tenders. This includes participation as a sub contractor. 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. Members of a joint venture may not also make an individual tender, be a sub contractor in a separate tender or be part of another joint venture for the purposes of the same Tender.

3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT3.9. A Tenderer shall be deemed to have the nationality of a country If the Tenderer is constituted, incorporated or registered in and operates inconformity 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 sub contractors or sub consultants for any part of the Contract including related Services.

3.7 A Tenderer that has been debarred by the PPRA from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the PPRA's website www.ppra.go.ke

3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s)only if they are (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis. Public employees and their close relatives are not eligible to participate in the tender.

3.9 Tenderers may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with the 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 for supply of goods or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

3.10 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and sub contractors) is not associated, or have been associated in the past, directly or in directly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.

3.11 Where the law requires tenderers to be registered with certain authorities in Kenya, such registration requirements shall be defined in the **TDS**

3.12 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.

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

4. Eligible Goods and Related Services

4.1 All the Goods and Related Services to be supplied under the Contract shall have their origin in any country that is eligible in accordance with ITT 3.9.

4.2 For purposes of this ITT, the term "goods" includes commodities, raw material, machinery, equipment, and industrial plants; and "related services" include services such as insurance, installation, training, and initial maintenance.

4.3 The term "origin" means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

4.4 A procuring entity shall ensure that the items listed below shall be sourced from Kenya and here shall be no substitutions from foreign sources. The affected items are:

a) Motor vehicles, plant and equipment which are assembled in Kenya;
b) furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather, agro -processed products, sanitary products, and other goods made in Kenya; or
c) goods manufactured, mined, extracted or grown in Kenya.

4.5 Any 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. Sections of Tendering Document

5.1 The tendering document consist of Parts1,2, and3, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT8.

PART: Tendering Procedures

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

PART2: Supply Requirements

v) Section V-Schedule of Requirements

PART3Contract

vi) Section VI -General Conditions of Contract (GCC)

vii) Section VII-Special Conditions of Contract (SCC)

viii) Section VIII-Contract Forms

5.2 The notice of Invitation to Tender or the notice to the prequalified Tenderers issued by the Procuring Entity is not part of the tendering document.

5.3 Unless obtained directly from the Procuring Entity, the Procuring Entity 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 accordancewithITT7.

5.4 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.

6. Clarification of Tendering Document

6.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting if provided for in accordance with ITT6.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received not later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall for ward copies of its response to all tenderers who have acquired the Tender documents in accordance with ITT5.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS,** the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS.** Should the clarification resulting changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT7.

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

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

6.4 Minutes of the pre-Tender meeting, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT6.3. Minutes shall not identify the source of the questions asked.

6.5 The Procuring Entity shall also promptly publish an unitized (*no names*) Minutes of the pre-Tender meeting at the web page identified **in the TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT7 and not through the minutes of the pre-Tender meeting. Non attendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

7. Amendment of Tendering Document

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

7.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tender document from the Procuring Entity in accordance with ITT6.3.The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance withITT7.1.

7.3 To give prospective Tenderers reasonable time in which to take an addendum in to account in preparing their Tenders, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT21.2.

C. Preparation of Tenders

8. Cost of Tendering

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

9. Language of Tender

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

10. Documents Comprising the Tender

10.1 The Tender shall comprise the following:

a) Form of Tender prepared in accordance with ITT11;

b) Price Schedules: completed in accordance with ITT11 and ITT13;

c) Tender Security or Tender- Securing Declaration, in accordance with ITT18.1;

d) Alternative Tender: if permissible, in accordance with ITT12;

e) Authorization: written confirmation authorizing the signatory of the Tender to commit theveneriin accordance with ITT19.3;

f) Qualifications: documentary evidence in accordance with ITT16.2 establishing the Tenderer qualifications to perform the Contract if its Tender is accepted;

g) Tenderer Eligibility: documentary evidence in accordance with ITT16.1establishing the Tenderer eligibility to tender;

h) Eligibility of Goods and Related Services: documentary evidence in accordance with ITT15, establishing the eligibility of the Goods and Related Services to be supplied by the Tenderer;

i) Conformity: documentary evidence in accordance with ITT15.2 that the Goods and Related Services conform to the tender document; and

j) Any other document required in the TDS.

10.2 In addition to the requirements under ITT10.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement tendered in to by all members Alternatively., a letter of intent to execute a Joint Venture Agreement the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed A agreement.

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

11. Form of Tender and Price Schedules

11.1 The Form of Tender and Price Schedules shall be prepared using there levant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text. All blanks' paces shall be filled in with the information requested. The Tenderer shall chronologically serialize pages of all tender documents submitted.

12. Alternative Tenders

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

13. Tender Prices and discounts

13.1 The prices quoted by the Tenderer in the Form of Tender and in the Price, Schedules shall conform to the requirements specified below.

13.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.

13.3 The price to be quoted in the Form of Tender in accordance with ITT10.1shall be the total price of the Tender, including any discounts offered.

13.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the form of tender. Condition al discounts will be rejected.

13.5 Prices quoted by the Tenderer shall be fixed during the performance of the Contract and not subject to variation on any account, unless other wise specified **in the TDS .**A Tender submitted with an adjustable price quotation shall be treated as non-responsive ands hall be rejected ,pursuant to ITT28.However,if in accordance with **the TDS**, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract ,a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

13.6 If specified in ITT1.1, Tenders are being invited for individual lots(contracts)or for any combination of lots(packages). Unless otherwise specified **in the TDS, prices** quoted shall correspond to 100%of the items specified for each lot and to1 00% of the quantities specified for each item of a lot. Tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT13.4provided the Tenders for all lots (contracts) are opened at the same time.

13.7 The terms EXW ,CIP ,CIF,DDP and other similar terms shall be governed by the rules prescribed in the current edition of Inco terms ,published by the International Chamber of Commerce.

13.8 Prices shall be quoted as specified in each Price Schedule included in Section IV, Tendering Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Procuring Entity. This shall not in anyway limit the Procuring Entity's right to contract on any of the terms offered. In quoting prices, the Tenderer shall be free to use transportation through carriers registered in any eligible country. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with ITT3.6, Eligible Tenders. Prices shall be entire in the following manner:

a) For Goods manufactured in Kenya:

I) The price of the Goods quoted EXW (ex-works, ex-factory, warehouse, showroom, or off-the-shelf ,as applicable)final destination point indicated in the **TDS**, including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;

ii) Any sales tax and other taxes which will be payable in Kenya on the Goods if the Contract is awarded to the Tenderer; and

iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination specified in the TDS**.**

b) For Goods manufactured outside Kenya, to be imported:

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

ii) the price for inland transportation, insurance ,and other local services required to convey the Goods from the named place of destination to their final destination specified **in the TDS;**

c) For Goods manufactured outside Kenya, already imported:

i) The price of the Goods, including the original import value of the Goods; plus, any mark-up(or rebate);plus, any other related local cost ,and custom duties and other import taxes already paid or to be paid on the Goods already imported;

ii) The custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;

iii) Any sales and other taxes levied in Kenya which will be payable on the Goods if the Contract is awarded to the Tenderer; and

iv) The price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified **in the TDS.**

d) For Related Services, other than in land transportation and other services required to convey the Goods to their final destination, when ever such Related Services are specified in the Schedule of Requirements, the price of each it comprising the Related Services (inclusive of any applicable taxes).

14. Currencies of Tender and Payment

14.1 The currency (ies) of the Tender, the currency(ies) of award and the currency(ies) of contract payments shall be the same**.**

14.2 The Tenderer shall quote in Kenya shillings. If allowed in the **TDS**, the Tenderer may express the Tender price in any currency, provided it shall use no more than two foreign currencies in addition to the Kenya Shilling.

14.3 The rates of exchange to be used by the Tenderer shall be based on the exchange rates provided by the Central Bank of Kenya on the date 30 days prior to the actual date of tender opening.

15. Documents Establishing the Eligibility and Conformity of the Goods and Related Services

15.1 To establish the eligibility of the Goods and Related Services in accordance with ITT15,Tenderers shall complete the country-of-origin declarations in the Price Schedule Forms, included in Section, Tendering Forms.

To establish the conformity of the Goods and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.

The documentary evidence may be in the form of literature ,drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.

The Tenderer shall also furnish a list giving full particulars, including a available sources and current prices of spare parts ,special tools,etc.,necessary for the proper and continuing functioning of the Goods during the period specified in the TDS following commencement of the use of the goods by the Procuring Entity.

Standards for work Manship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Procuring Entity in the Schedule of Requirements, are in tended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/ or catalogue numbers, provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

Documents Establishing the Eligibility and Qualifications of the Tenderer

To establish Tenderer eligibility in accordance with ITT4, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.

The documentary evidence of the Tenderer qualifications to perform the Contract if its Tender is accepted shall establish to the Procuring Entity's satisfaction:

that, if required in the TDS, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tendering Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Kenya;

that ,if required in the TDS, incase of a Tenderer not doing business with in the Kenya, the Tenderer is or will be(if awarded the Contract)represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and

that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

Period of Validity of Tenders

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 (as prescribed by the Procuring Entity in accordance with ITT21.1).A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

In exceptional circumstances ,prior to the expiration of the Tender validity period, the Procuring Entity 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 ITT18, it shall also be extended for a corresponding period. AT endearer may refuse the request without for feinting its Tender Security. A Tender erg ranting there quest shall not be required or permitted to modify its Tender, except as provided in ITT17.3.

If the award is delayed by a period exceeding the number of days to be specified in the TDS days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:

In the case of fixed price contracts ,the Contract price shall be the tender price adjusted by the factor specified in the TDS;

inthecaseofadjustablepricecontracts,noadjustmentshallbemade;orinanycase,tenderevaluationshallbebasedonthetenderpricewithouttakingintoconsiderationtheapplicablecorrectionfromthoseindicatedabove.

Tender Security

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.

A Tender Securing Declaration shall use the form included in Section IV, Tendering Forms.

If a Tender Security is specified pursuant to ITT18.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer option:

cash;

a bank guarantee;

a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or

a letter of credit; or

guarantee by a deposit taking micro-finance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprise Fund.

If an unconditioned AL guarantee is issued by a non-Bank financial institution located outside Kenya, the is suing non-Bank financial institution shall have a correspondent financial institution located in Kenya to make it enforceable unless the Procuring Entity has agreed inwriting, prior to Tender submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tendering Forms, or in another substantially similar form at approved by the Procuring Entity prior to Tender submission. The Tender Security shall be valid for thirty

(30)days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT17 .2.

If a Tender Security is specified pursuant to ITT18.1 ,any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.

If a Tender Security is specified pursuant to ITT18.1,theTender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer signing the Contract and furnishing the Performance Security pursuant to ITT46.The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bidder declines to extend tender validity period.

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 Tender Security may be forfeited or the Tender Securing Declaration executed:

If a Tenderer withdraw sits Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension there to provided by the Tenderer ;or

If the successful Tenderer fails to:

Sign the Contract in accordance with ITT45;or

Furnish a Performance Security in accordance with ITT46.

Where tender securing declaration is executed ,the Procuring Entity shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.

The Tender Security or Tender-Securing Declaration of a JV must be in the name of the JV that submits the Tender .If the JV has not been legally constituted in to a legally enforceable JV at the time of Tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the letter of in tent referred to in ITT3.1 and ITT10.2.

A tenderer shall not issue a tender security to guarantee itself.

Format and Signing of Tender

The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT11 and clearly mark it“ ORIGINAL .”Alternative Tenders, if permitted in accordance with ITT12,shall be clearly marked“ ALTERNATIVE.” In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them“ COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

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.

The original and all copies of the Tender shall be typed or written in indelible in kand shall be signed by a person 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.

Incase 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 each members 'legally authorized representatives.

Anyinter-lineation,erasures,oroverwritingshallbevalidonlyiftheyaresignedorinitialledbythepersonsigningtheTender.

D. Submission and Opening of Tenders

Sealing and Marking of Tenders

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 the Procuring Entity 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 ITT11;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 ITT12, and if relevant:

In an envelope or package or container marked“ ORIGINAL–ALTERNATIVE TENDER”, the alternative Tender; and

In the envelope or package or container marked“ COPIES-ALTERNATIVE TENDER”, all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

Bear the name and address of the Procuring Entity.

Bear the name and address of the Tenderer; and

Bear the name and Reference number of the Tender.

Where a tender package or container cannot fit in the tender box, the procuring entity shall:

Specify in the TDS where such documents should be received.

Maintain are cord of tenders received and issue acknowledgement receipt note to each tenderer specifying time and date of receipt.

Ensure all tenders received are handed over to the tender opening committee for opening at the specified opening place and time.

If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders misplaced or opened prematurely will not be accepted.

Deadline for Submission of Tenders

Tenders must be received by the Procuring Entity 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.

The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT7, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall there after be subject to the dead line as extended.

Late Tenders

The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of Tenders .Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned un opened to the Tenderer.

Withdrawal, Substitution, and Modification of Tenders

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 ITT19.3, (except that withdraw al notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

Prepared and submitted in accordance with ITT20 and 21(except that withdrawal notices do not require copies),and in addition, the respective envelopes shall be clearly marked“ WITHDRAWAL,”“ SUBSTITUTION,” or“ MODIFICATION;” and

Received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance withITT22.

Tenders requested to be withdrawn in accordance with ITT23.1shall be returned un opened to the Tenderers.

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.

Tender Opening

Except as in the cases specified in ITT23, the Procuring Entity 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 who choose to attend, including to attend any specific electronic tender opening procedures if electronic tendering is permitted in accordance with ITT21.1 ,shall be asspecified in the TDS.

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.

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.

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.

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 ,if required; and any other details as the Procuring Entity may consider appropriate.

Only Tenders ,alternative Tenders and discounts that are opened and read out at Tender opening shall be consider ed further for evaluation.The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening.The number of representatives of the Procuring Entity to sign shall be specified in the TDS.

The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT22.1).

The Procuring Entity shall prepare are cord of the Tender opening that shall include, as a minimum:

The name of the Tenderer and whether the re is a withdrawal, substitution, or modification;

The Tender Price, per lot (contract) if applicable, including any discounts;

Any alternative Tenders;

The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required;

Number of pages of each tender document submitted.

The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer signature on there cord shall not invalid at the contents and effect of the record. A copy of the tender opening register shall be issued to Tenderer upon request.

E. Evaluation and Comparison of Tenders

Confidentiality

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 the in formation on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT41.

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

Not withstanding ITT25.2, from the time of Tender opening to the time of Contract Award ,if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process ,it should do so in writing.

Clarification of Tenders

To assist in the examination, evaluation, comparison of the Tenders, and qualification of the Tenderers, the Procuring Entity

may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity'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 the Procuring Entity in the Evaluation of the Tenders, in accordance with ITT30.

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

Deviations, Reservations, and Omissions

During the evaluation of Tenders, the following definition supply:

“Deviation “is a departure from the requirements specified in the Tendering document;

“Reservation” is the setting of limiting conditions or with holding from complete acceptance of the requirements specified in the tendering document; and

“Omission” is the failure to submit part or all of the information or documentation required in the tendering document.

Determination of Responsiveness

The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender it self, as defined in ITT28.2.

A 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:

If accepted, would:

Affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or

Limit in any substantial way ,in consistent with the tendering document, the Procuring Entity's rights or the Tenderer obligation sunder the Contract; or

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

The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT15 and ITT16, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.

If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

Non-conformities, Errors and Omissions

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

Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within are as on able period of time, to rectify non material non-conformities or omissions in the Tender related to documentation requirements .Such omission 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.

Provided that a Tender is substantially responsive, the Procuring Entity 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.The adjustment shall be based on the *average* price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.

Arithmetical Errors

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.

Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:

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.

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

If the reis a discrepancy between words and figures, the amount in words shall prevail.

30.2 Tenderers shall be notified of any error detected in their bid during the notification of award.

Conversion to Single Currency

For evaluation and comparison purposes, the currency(ies) of the Tender shall be converted in a single currency as specified in the TDS.

Margin of Preference and Reservations

A margin of preference may be allowed on locally manufactured goods only when the contract is open to international tendering, where the tender is likely to attract foreign goods and where the contract exceeds the threshold specified in the Regulations.

For purposes of granting a margin of preference on locally manufactured goods under international competitive tendering, a procuring entity shall not subject the items listed below to international tender and hence no margin of preference shall be allowed. The affected items are:

Motor vehicles, plant and equipment which are assembled in Kenya;

furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather agro-processing, sanitary products, and other goods made in Kenya; or

goods manufactured, mined, extracted or grown in Kenya.

A margin of preference shall not be allowed unless it is specified so in the TDS.

Contracts procured on basis of international competitive tendering shall not be subject to reservations to specific groups as provided in ITT32.5.

Where it is in tended to reserve a contract to a specific group of businesses(these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be),and who are appropriately registered as such by the authority to be specified in the TDS, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender as specified in the TDS. No tender shall be reserved to more than one group. If not so stated in the Tender documents, the invitation to tender will be open to all interested tenderers.

Evaluation of Tenders

The Procuring Entity 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, the Procuring Entity shall determine the Lowest Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:

Substantially responsive to the tender documents; and

The lowest evaluated price.

Price evaluation will be done for Items or Lots (contracts), as specified in the TDS; and the Tender Price as quoted in accordance with ITT14. To evaluate a Tender, the Procuring Entity shall consider the following:

Price adjustment due to unconditional discounts offered in accordance with ITT13.4;

Converting the amount resulting from applying (a)and(b)above, if relevant, to a single currency in accordance with ITT31;

Price adjustment due to quantifiable non material non-conformities in accordance with ITT29.3; and

Any additional evaluation factors specified in the TDS and Section III, Evaluation and Qualification Criteria.

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.

Where the tender involves multiple lots or contracts, the tenderer will be allowed to tender for one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT33.2. The methodology to determine the lowest evaluated tenderer or tenderers based one lot (contract) or based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.

The Procuring Entity's evaluation of a Tender will include and consider:

In the case of Goods manufactured in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Tenderer;

In the case of Goods manufactured outside Kenya, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Tenderer;

The Procuring Entity's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT14. These factors maybe related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any,shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in the TDS from amongst those set out in Section III, Evaluation and Qualification Criteria. The additional criteria and methodologies to be used shall be as specified in ITT33.2(d).

Comparison of Tenders

The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT33.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of total cost (place of final destination)prices for all goods and all prices, plus cost of in land transportation and insurance to place of destination, for goods manufactured within the Kenya, together with prices for any required installation, training, commissioning and other services.

Abnormally Low Tenders

An Abnormally Low Tender is one where the Tender price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that the Tender price raises material concerns with the Procuring Entity as to the capability of the Tenderer to perform the Contract for the offered Tender price.

In the event of identification of a potentially Abnormally Low Tender by the evaluation committee, the Procuring Entity shall seek written clarification from the Tenderer, including a detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the tendering document.

After evaluation of the price analysis, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the contract for the offered Tender price, the Procuring Entity shall reject the Tender.

Abnormally High Tenders

An abnormally high price is one where the tender price, in combination with other constituent elements of the

Tender, appears un reasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) 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.

Incase of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.

If specifications ,scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*),the Procuring Entity shall reject all Tenders and shall institute or cause relevant Government Agencies to institute an investigation on the cause of the compromise, before retendering.

Post Qualification of the Tenderer

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

The determination shall be based upon an examination of the documentary evidence of the Tenderer qualifications submitted by the Tenderer, pursuant to ITT15 and 16. The determination shall not take into consideration the qualifications of other firms such as the Tenderer subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the tendering document), or any other firm(s) different from the Tenderer.

An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated cost to make a similar determination of that Tenderer qualifications to perform satisfactorily.

Lowest Evaluated Tender

Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Lowest Evaluated Tender. The Lowest Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:

Most responsive to the Tender document; and

The lowest evaluated price.

Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders.

The Procuring Entity reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to notification Award, without there by incurring any

Liability to Tenderers. Incase of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically ,tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

A ward Criteria

The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender in accordance with procedures in Section 3: Evaluation and Qualification Criteria.

Notice of Intention to enter in to a Contract

Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity 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:

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

The Contract price of the successful tender;

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;

The expiry date of the Stands till Period; and

Instructions on how to request a debriefing and/or submit a complaint during the stand still period;

Stands till Period

The Contract shall not be awarded earlier than the expiry of a Stands till Period of 14 days to allow any dissatisfied candidate to launch a complaint. Where only one Tender is submitted, the Stand still Period shall not apply.

Where stands till period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter in to a Contract to the successful Tenderer.

Debriefing by the Procuring Entity

On receipt of the Procuring Entity's Notification of Intention to Enter in to a Contract referred to in ITT41, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.

Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Stands till Period specified in ITT42, upon addressing a complaint that has been filed within the Stand still Period, the Procuring Entity 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.

Signing of Contract

Upon the expiry of the fourteen days of the Notification of Intention to enter in to contract and upon the parties meeting the irrespective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

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

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

Performance Security

Within twenty-one (21) days of the receipt of Letter of Acceptance from the Procuring Entity, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC18, using for that purpose the Performance Security Form included in Section X, Contract Forms. 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 the Procuring Entity. foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not

required.

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 for feature of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next lowest Evaluated Tender.

Performance security shall not be required for a contract, if so specified in the TDS.

Publication of Procurement Contract

Within fourteen days after signing the contract, the Procuring Entity shall publish and publicize the awarded contract at its notice boards, entity website; and on the Website of the Authority in manner and format prescribed by the Authority. At the minimum, the notice shall contain the following information:

Name and address of the Procuring Entity;

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

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

Dates of signature, commencement and completion of contract;

Names of all Tenderers that submitted Tenders, and their Tender prices.

Procurement Related Complaint

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

SECTIONII–TENDER DATA SHEET (TDS)

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

ITT Reference	Particulars Of Appendix To Instructions To Tenders
A. General	
ITT 1.1	The reference number of the Invitation for Tenders is: **BRCG/TNR/ 008/2024-2025** The Procuring Entity is: **County Government of Baringo** The name of the Contract is: **SUPPLY OF FOOD STUFF (E.G. BEEF, GOAT MEAT, MUTTON, CHICKEN, EGGS, FRUITS, VEGETABLES, DRY FOODS E.G. (MAIZE, BEANS & RICE ETC) AND NON FOOD ITEMS** The number and identification of lots (contracts) comprising this Invitation for Tenders
ITT 1.2(a)	The Procuring Entity shall NOT use the IFMIS electronic-procurement system to manage this Tendering process: and documents are to be found on ***www.baringo.go.ke***. The electronic-procurement system shall be used to manage the following aspects of the Tendering process: **Tendering document, submissions of Tenders, opening of Tenders, Evaluation of tender, awarding of tender shall be done manually**
ITT 2.3	The Information made available on competing firms is as follows: **NOT APPLICABLE THE TENDER IS OPEN AND FAIR TO ALL BIDDERS**
	The firms that provided consulting services for the contract being tendered for are: **NOT APPLICABLE THE TENDER IS OPEN AND FAIR TO ALL BIDDERS**
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: ***NOT APPLICABLE***
ITT 3.7	A list of debarred firms and individuals is available on the PPRA's website: www.ppra.go.ke
ITT 3.11	Tenderers shall be required to be to be registered with **KENYA REGISTAR OF COMPANIES**
	B. Contents of Tendering Document
ITT 6.1	(a) Address where to send enquiries is : **Supply Chain Management Offices at AFC Building (Basement) along Kabarnet-Eldoret Highway** to reach the Procuring Entity not later than **THE DATE & TIME INDICATED IN THE TENDER NOTICE/TENDER DOCUMENT.**
ITT 6.2	**NOT APPLICABLE** A pre-tender conference will **not be held**
ITT 6.3	The questions to reach the Procuring Entity not later than **FIVE (5) DAYS TO CLOSING DATE.**
ITT 6.5	**NOT APPLICABLE** The Minutes of the Pre-Tender meeting shall be published on the at the website
	C. Preparation of Tenders
ITT 10 (j)	The Tenderer shall submit the following additional documents in its Tender: **NOT APPLICABLE**
ITT 12.1	Alternative Tenders ***SHALL NOT BE*** considered.
ITT 13.5	The prices quoted by the Tenderer **SHALL NOT** be subject to adjustment during the performance of the Contract.
ITT 13.6	Prices quoted for each lot (contract) shall correspond at least **to *[insert figure]*** percent of the items specified for each lot (contract). **NOT APPLICABLE** Prices quoted for each item of a lot shall correspond at least to ***[insert figure]*** percent of the quantities specified for this item of a lot. **NOT APPLICABLE**

ITT 13.8 (a) (i)	Place of final destination: **DIRECTOR SUPPLY CHAIN MANAGEMENT P.O BOX 53 KABARNET Supply Chain Management Offices at AFC Building (Basement) along Kabarnet-Eldoret Highway**
ITT Reference	**Particulars Of Appendix To Instructions To Tenders**
and (iii)	
ITT 13.8 (a) (iii)	Final Destination (Project Site): ***ALL REPLIES SHOULD GO THROUGH COUNTY GOVERNMENT OF BARINGO.***
ITT 13.8 (b) (i)	Named place of destination, in Kenya is ***COUNTY GOVERNMENT OF BARINGO P.O BOX 53 KABARNET.***
ITT 13.8 (b) (ii)	The price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination which is **NOT APPLICABLE**
13.8 (c) (iv)	The place of final destination (Project Site) is **Supply Chain Management Store At Governor's Office along Hospital Road, P.O Box 53-30400 KABARNET KENYA**
ITT 14.2	Foreign currency requirements **NOT ALLOWED**
ITT 15.4	Period of time the Goods are expected to be functioning (for the purpose of spare parts): **ONE YEAR SUBJECT TO RENEWAL**
ITT 16.2 (a)	Manufacturer's authorization is **AS PER CRITERIA.**
ITT 16.2 (b)	After sales service is **NOT REQUIRED**
ITT 17.1	The Tender validity period shall be **120** days.
ITT 17.3	**NOT APPLICABLE** (a) The Number of days beyond the expiry of the initial tender validity period will be _____days. (b) The Tender price shall be adjusted by the following percentages of the tender price: *(i)* By _____% of *the local currency portion of the Contract price adjusted to reflect local inflation during the period of extension, and* *(ii) By_____% the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.*
ITT 18.1	A *Tender Security* ***SHALL NOT BE*** required. A Tender-Securing Declaration **SHALL BE** required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be **NOT APPLICABLE**
ITT 19.1	In addition to the original of the Tender, the number of copies is**: NOT APPLICABLE**
ITT 19.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist Of**: COMPANY DIRECTORS OR REPRESENTATIVES**
	D. Submission and Opening of Tenders SHALL BE DONE MANUALLY
ITT 20.3	A tender package or container that cannot fit in the tender box shall be received as at the office: **DIRECTOR SUPPLY CHAIN MANAGEMENT P.O BOX 53 KABARNET Supply Chain Management Offices at AFC Building (Basement)**

ITT 21.1	For **Tender submission purposes** only, the Procuring Entity's address is: Attention: **DIRECTOR SUPPLY CHAIN MANAGEMENT** Postal Address: **P.O BOX 53 KABARNET** Physical Address: **Supply Chain Management Offices at AFC Building (Basement) along Kabarnet-Eldoret Highway** Telephone: **N/A** Electronic mail address: supplychain@baringo.go.ke or directorscm@baringo.go.ke **The deadline for Tender submission is:** Date: Please check on the tender notice/Document. Time: Please check on the tender notice/Document. tenderers have the no option of submitting their Tenders electronically. The manual Tendering submission procedures shall be **sent to: DIRECTOR SUPPLY CHAIN MANAGEMENT P.O BOX 53 KABARNET Supply Chain Management Offices at AFC Building (Basement)along Kabarnet-Eldoret Highway**
ITT Reference	**Particulars Of Appendix To Instructions To Tenders**
ITT 24.1	The Tender opening shall take place at: **DIRECTOR SUPPLY CHAIN MANAGEMENT and WILL BE DONE MANUALLY at the date and time indicated in the document/ tender notice.** Postal Address: *[***P.O BOX 53 KABARNET***]* Physical Address: **Supply Chain Management Offices at AFC Building (Basement)along Kabarnet-Eldoret Highway Date: As indicated in the document/ tender notice.** ***(ITT 22).]*** The Tender opening procedures shall be: ***DONE DURING THE DAY AND DATE OF OPENING.***
ITT 24.6	The number of representatives of the Procuring Entity to sign is **NOT APPLICABLE**
E. Evaluation and Comparison of Tenders	
ITT 29.3	The manner to rectify quantifiable non material non conformities described below: **NOT APPLICABLE**
ITT 31.1	The currency that shall be used for Tender evaluation and comparison purposes to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: **KENYA SHILLING.** The source of exchange rate shall be: **NOT APPLICABLE** The date for the exchange rate shall be: **NOT APPLICABLE**
ITT 32.3	**NOT APPLICABLE** A margin of preference and/or reservation ***[insert either "shall" or "shall not"]*** apply and specify the details. If a margin of preference applies, the application methodology shall be defined in Section III – Evaluation and Qualification Criteria.
ITT 32.5	**NOT APPLICABLE** The invitation to tender is extended to the following group that qualify for Reservations who shall be duly registered with
ITT 33.2	**NOT APPLICABLE** **Price evaluation will be done for _____ (*specify Items or Lots (contracts*)**
ITT 33.2 (d)	**NOT APPLICABLE** Additional evaluation factors are

ITT 33.6	**NOT APPLICABLE** **(a)** ***[insert any other specific criteria in Section III, Evaluation and Qualification Criteria]***
	F. Award of Contract
ITT 41.1	**NOT APPLICABLE** The maximum percentage by which quantities may be increased is: ***[insert percentage]*** The maximum percentage by which quantities may be decreased is: ***[insert percentage]***
ITT 41.1	The Procuring Entity shall increase or decrease the quantity of Goods and Related Services by an amount not exceed _____% and without any change in the unit prices or other terms and conditions of the Tender and the tendering document.
ITT 47.3	**NOT APPLICABLE** Performance security if so required shall be in the sum of _____
ITT 49.1	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA Website www.ppra.go.ke.
ITT 49.2	**UPON AWARD SUCCESSFUL, BIDDERS TO PROVIDE BUSINESS PERMIT FROM THE COUNTY GOVERNMENT OF BARINGO.**
ITT Reference	**Particulars Of Appendix To Instructions To Tenders**
	If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to: For the attention: **Director Supply Chain Management** Title/position: **Director Supply Chain Management** Procuring Entity: **Baringo County Government** Email address: **supplychain@baringo.go.ke or directorscm@baringo.go.ke** In summary, a Procurement-related Complaint may challenge any of the following: **1.** the terms of the Tendering Documents; and **2.** the Procuring Entity's decision to award the contract.

SECTION III-EVALUATION AND QUALIFICATION CRITERIA

General Provisions

Wherever Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

For business turn over or financial data required for each year-Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.

Value of single contract-Exchange rate prevailing on the date of the contract signature.

Exchange rates shall be taken from the publicly available source identified in the ITT14.3. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

This section contains the criteria that the Procuring Entity Procuring Entity shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than those specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity should use the Standard Tender Evaluation Report for Goods and Works for evaluating Tenders.

Evaluation of Tenders (ITT33)

Successful Tender or Tenders

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate Tenders. By applying these criteria and methodologies, the Procuring Entity shall determine the successful Tender or Tenders which has/have been determined to:

Be substantially responsive to the tender documents;

Offer the lowest evaluated cost to the Procuring Entity for all items of Goods to be procured based on either a single Contractor all multiple Contracts combined, as the case maybe, in accordance with the ITT13. 6 inviting Tender prices and discounts, and provisions made of the Tender Document for evaluation of tenders and award of contract(s); and

Be offered by Tenderer or Tenderers that substantially meet the qualification criteria applicable for Contractor combined Contracts for which they are selected.

Evaluation of Tenders

Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered non-responsive and will not be considered further.

EVALUATION CRITERIA

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
23	***SECTION A).*** **MANDATORY REQUIREMENTS**
	M1. MUST Attach Certificate of Incorporation or Business Name Registration
	M2. Attach Valid Tax Compliance Certificate.
	M3. MUST Attach dully filled business questionnaire
	M4.MUST attach current company CR12/13 certificate printed within the past recent six (6) months.
	M5.MUST Attach dully filled Anti-corruption declaration form
	M6. Attach Valid Business permit .
	M7. Dully filled & stamped form of tender
	M.8. Attach letter of authorization from authorized company(dealers) (where applicable).
	M9. Bid document **MUST** be Serialized.
	M8. MUST submit tenders in the correct Format (All forms filled, signed and rubber stamped. i.e. Tender form, Business Questionnaire, price schedule, Corruption declaration form.
	M10. Dully filled BENEFICIAL OWNERSHIP DISCLOSURE FORM.
	Note: Failure to meet the above requirements shall render the tenderer none responsive and shall not proceed to technical stage of evaluation.
2.1.1	**OPEN TENDER.**
2.18.1	**TENDER CLOSING DATE: TUESDAY 24TH SEPTEMBER, 2024 AT 12.00 NOON.**

PRICE EVALUATION

Consistent with and in addition to the criteria listed in ITT33.3 and ITT29.3; and ITT34 and its sub paragraphs the following criteria shall apply:

Evaluation of Technical aspects of the Tender

The Procuring Entity shall evaluate the technical aspects of the Tender to determine compliance with the Procuring Entity's requirements under Section V'S schedule of Requirement' and whether the Tenders are substantially responsive to the Technical Specifications and other Requirement**s.**

TECHNICAL EVALUATION CRITERIA

Technical Evaluation shall comprise scoring of bidders under various attributes in the table below – Table of Scoring Matrix. To earn maximum scores, a bidder must (1) provide supporting documents as per criteria (2) provide very precise/specific and relevant information as per criteria (3) provide as many/much information as possible to earn more points. **A bidder must score a minimum of 25 points to be considered for Financial Evaluation**

Table of Scoring Matrix

s/no	Sub-Factor	Requirement	Maximum score	Awarded score
1.	Financial Situation			
	Audited financial reports for the past three years (2020, 2021 & 2022)	Audited financial report for 2020	5	
		Audited financial report for 2021	5	
		Audited financial report for 2022	5	
	Financial Capacity		15	
2.	EXPERIENCE			
	Contract implemented & completed in the past five (5) years on goods/services (2018 to 2022)	Information on past supplies and deliveries of goods/services. Bidders MUST provide (1) Offers Letters or Contract Letters/LPOs clearly stipulating the contract value/amounts in question, Qualification Information Form (choose either of the qualification below):		
		Contracts value above KES 2M	20	
		Contracts value up to KES 0.5-2M	10	
		Contracts below to KES 0.5 M	5	
	PAST & SPECIFIC EXPERIENCE		20	
3.	Dully filled and stamped Price list/specifications		20	
4.	Manufacturer's Authorization	Dully filled and stamped Manufacturer's Authorization	N/A	
	TOTAL SCORES		55	

NOTE: Only tenders that score 45% on technical evaluation will qualify to have their proposals for financials evaluated. Those scoring below 45% will be disqualified at this stage. Award will be given to the lowest evaluated responsive bidder.

The Procuring Entity shall determine whether the Tenders are substantially responsive to the Commercial and Contractual Terms and Conditions (e.g.performance securities, Payment and delivery schedules).

Evaluation Criteria (Other Factors) (ITT33.6)

The Procuring Entity's evaluation of a Tender may take in to account, in addition to the Tender Price quoted in accordance with ITT13.8, one or more of the following factors as specified in ITT33.2(d)and in TDSITT33.6, using the following criteria and methodologies.

Delivery schedule.

The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section V, Schedule of Requirements. No credit will be given to deliveries before the earliest date, and Tenders offering delivery after the final date shall be treated as non-responsive. Within this acceptable period, an adjustment of [insert the adjustment factor], will be added, for evaluation purposes only ,to the Tender price of Tenders offering deliveries later than the“ Earliest Delivery Date” specified in Section V, Schedule of Requirements.

Deviation in payment schedule.

Tenderers shall state their Tender price for the payment schedule outlined in the SCC. Tenders shall be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in Tender price they wish to offer for such alternative payment schedule. The Procuring Entity may consider the alternative payment schedule and the reduced Tender price offered by the tenderer selected on the basis of the base price for the payment schedule outlined in the SCC.

Cost of major replacement components,

Tenderer shall provide along with its Tender, the list of recommended spare parts for Goods offered indicating for each item of spare part the recommended quantity and unit ,and total CIP final destination prices required during the initial period of operation specified in the TDS 15.4. The prices offered shall not exceed the prevailing prices charged to the parties by the Tenderer. The cost of such spare parts will not be taken into account for tender evaluation. The Procuring Entity may award the contract for spare parts to the Tenderer that is successful for the supply of Goods ,by selecting at its option, from the Tender's list of recommended spareparts ,such items and quantities against each as the Procuring Entity may deem appropriate at the unit prices indicated by the Tenderer but not exceeding ----% (present) of the cost of Goods[normally not more than10% or15%.]

a) **Availability in Kenya** of spareparts and after sales services for equipment offered in the Tender.

An adjustment equal to the cost to the Procuring Entity of establishing the minimum service facilities and parts inventories if quoted separately, shall be added to the Tender price, for evaluation purposes only.

b) Specific additional criteria

[Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in TDS34.6][If specific **sustainable procurement technical requirements** have been specified in Section VII -Specification ,**either** state that (i) those requirements will be evaluated on a pass/fail (compliance basis) **or** otherwise (ii)in addition to evaluating those requirements on a pass/fail(compliance basis), if applicable, specify the monetary adjustments to be applied to Tender Prices for comparison purposes on account of Tenders that exceed the specified minimum sustainable procurement technical requirements.]

22.4. Multiple Contracts(ITT33.4)

Multiple contracts will be permitted in accordance with ITT33.4.Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION1

i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.

ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest the tenderers.

OPTION2

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

22.5. Alternative Tenders

(ITT13.1) *An alternative if permitted under ITT13.1,will be*

evaluated as follows: [insert one of the following]

"A Tenderer may submit an alternative Tender only with a Tender for the base case. The Procuring Entity shall only consider the alternative Tenders offered by the Tenderer whose Tender for the base case was determined to be the Lowest Evaluated Tender."

1. MARGIN OF PREFERENCE

1.1 If the TDS so specifies, the Procuring Entity will grant a margin of preference of 15%(fifteen percent)to Tenderers offering goods manufactured ,mined ,extracted, grown, assembled or semi-processed in Kenya. Goods assembled or semi- processed in Kenya shall have a local content of not less than 40%.

1.2 The margin of preference will be applied in accordance with, and subject to, the following provisions:

a) Tenderers applying for such preference on goods offered shall provide ,as part of the data for qualification, such information, including details of the goods produced in Kenya ,so as to determine whether, according to the classification established by the Procuring Entity, a particular category of goods or group of goods qualifies for a margin of preference.

b) After Tenders have been received and reviewed by the Procuring Entity ,goods offered in the responsive Tenders shall be assessed to ascertain they are manufactured, mined, extracted, grown, assembled or semi-processed in Kenya. Responsive tenders shall be classified into the following groups:

i) **Group A:** Tenders offering goods manufactured in Kenya ,for which (a) labour, raw materials ,and components from within Kenya account for more than forty (40) percent of the Ex-Works price; and
(b)the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of Tender submission date;

ii) **Group B:** All other Tenders offering Goods manufactured in Kenya;

iii) **Group C:**Tenders offering Goods manufactured outside Kenya that have been already imported or that will be imported.

c) To facilitate this classification by the Procuring Entity, the Tenderer shall complete which ever version of the Price Schedule furnished in the Tender Documents is appropriate. In correct classification may render the Tender non-responsive as no reclassification will be permitted after Tender opening. Tenderers shall provide correct information especially with respect to duties, taxes etc. paid on previously imported Goods and percentage of local labour, materials and components for Goods manufactured in Kenya as any false information which cannot be supported by documentation may render the Tender non-responsive besides other sanctions for providing falsified information.

d) The Procuring Entity will first review the Tenders to confirm the appropriateness of the Tender group classification to which Tenderers assigned their Tenders in preparing their Tender Forms and Price Schedules.

e) All evaluated Tenders in each group will then be compared to determine the lowest evaluated Tender of each group. Such lowest evaluated Tenders shall be compared with each other and if as a result of this comparison a Tender from Group A or Group B is the lowest ,it shall be selected for the award.

f) If as a result of the preceding comparison ,the lowest evaluated Tender is a Tender from Group C, all Tenders from Group C shall be further compared with the lowest evaluated Tender from Group A after adding to the evaluated price of goods offered in each Tender from Group C ,for the purpose of this further comparison only ,a namountequalto15%(fifteen percent) of the respective CIP Tender price for goods to be imported and already imported goods. Both prices shall include unconditional discounts and be corrected for arithmetical errors. If the Tender from Group A is the lowest ,it shall be selected for award. If not, the lowest evaluated Tender from Group C shall be selected as per paragraph (e)above.”

1.3 Post-Qualification Criteria (ITT37.1)

Incase the tender was not subject to pre-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions(post qualification Criteria applied on *a GO/NO GO basis).The Procuring Entity shall carry out the post-qualification of the Tenderer in accordance withITT37,using only the requirements specified here in.* Requirements not included in the text below shall not be used in the evaluation of the Tenderer's qualifications. The minimum qualification requirements for multiple contracts will be the sum of the minimum requirements for respective individual contracts, unless otherwise specified.

1.4 If the Tenderer is a manufacturer

a) Financial Capability

i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, un encumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the supply cash flow of Kenya Shillings_____[or equivalent].

ii) Minimum average annual supply turnover of Kenya Shillings_____*[insert amount, specify a figure about 2.5 times the total Tender price)] or* equivalent calculated as total certified payments received for contracts of goods manufactured and supplied within the last_____*[insert number of years).* Incase of multiple contracts, limitation will be placed on the number of item(s) that will be awarded to the Tenderer.

b) Experience and Technical Capacity

The Tenderer shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s) using the form provided in Section IV. Incase the Tenderer is a JV, experience and demonstrated technical capacity of only the JV shall be taken in to account and not of individual members nor their individual experience/capacity will be aggregated unless all members of the JV have been manufacturing and supplying Goods offered in the Tender to the same technology, processing, design, materials, specifications, model number, etc. in all respects such that Goods manufactured have the same functional characteristics ,performance parameters, out puts and other guarantees and fully interchangeable which shall be documented a long with other required documents demonstrating capacity to the satisfaction of the Procuring Entity in case individual members claim experience. Otherwise, documents evidencing experience and technical capacity shall be in the name of the JV that submitted the Tender. Wherever the Words“ Similar Goods” have been used it includes upgrades, latest and improved versions or models of similar specifications and technology. Refer to Form Exp-1 to provide the required information.

c) **(Optional) Documentary Evidence of Usage of Goods (When appropriate)**
The Tenderer shall furnish documentary evidence satisfactory to the Procuring Entity to demonstrate that similar Goods as offered in the Tender have been in successful use or operation. If the Tenderer is a JV, the evidence of demonstrated usage of Goods supplied in the past shall be in the name of the JV.

1.5 If Tenderer is a Supplier:

If a Tenderer is a Supplier offering the Goods on behalf of or from a Manufacturer under Manufacturer's Authorization Form (Section IV, Tendering Forms), the Manufacturer shall demonstrate the above qualifications 4.2(b)(i),(ii),and(iii) and the Tenderer shall demonstrate it meets the following criteria.

i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, un encumbered real assets, lines of credit, and other financial means .

ii) Has satisfactorily and substantially completed contract(s) of a similar nature either within Kenya, the East African Community or abroad, as a prime supplier or a joint venture member.

iii) Tenderer (Supplier or /and manufacturer, and each member of JV incase the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur as a result of the default of the Tenderer, manufacturer or the member of JV as the case may be, in the last 5 years. The required information shall be furnished as perform CON-2].

1.6 PendingLitigation

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under paragraph I (i) above assuming that all pending litigation will be resolved against the Tenderer. Tenderer shall provide in formation on pending litigations as per Form CON-2.

4.6. **Litigation History**

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

SECTIONIV-TENDERING FORMS

Form of Tender Tenderer Information Form Tenderer JV Members Information Form

Price Schedule: Goods Manufactured Outside Kenya, to be Imported Price Schedule: Goods Manufactured Outside Kenya, already imported Price Schedule: Goods Manufactured in Kenya Price and Completion Schedule – Related Services Form of Tender Security – Demand Guarantee Form of Tender Security(Tender Bond)

Form of Tender-Securing Declaration Manufacturer's Authorization Form

FORM OF TENDER

INSTRUCTIONS TO TENDERERS

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

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

Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.

Date of this Tender submission:.....[insert date (as day, month and year) of Tender submission] Tender Name and Identification:.....[insert identification]Alternative No.:.....[insert identification No if this is a Tender for an alternative]

To: Baringo county Government p.o Box 53-30400 kabarnet

No reservations: We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with Instructions to tenderers(ITT7);

Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT3;

Tender/Proposal-Securing Declaration: We have not been suspended nor declared in eligible by the Procuring Entity based on execution of a Tender-Securing Declaration.

or

Proposal-Securing Declaration in Kenya in accordance with ITT3.6;

Conformity: We offer to supply in conformity with the Tendering document and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: [insert a brief description of the Goods and Related Services];

Tender Price: The total price of our Tender, excluding any discounts offered in item (f)below is:

Option 1, incase 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

Option2, incase 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];

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

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

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

Tender Validity Period: Our Tender shall be valid for the period specified in TDS17.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS21.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at anytime 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;

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 ITT3.9, other than alternative Tenders submitted in accordancewithITT12;

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 Procuring Entity. Further, we are not in eligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;

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 ITT3.7];*

Commissions, gratuities, 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 as paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amoun

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

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

Procuring Entity Not Bound to Accept: We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and

Fraud and Corruption: We here by 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.

Code of Ethical Conduct: We under take to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from_____(*specify website*) during the procurement process and the execution of any resulting contract.

Collusive practices: We here by 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.

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

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

Certificate of Independent Tender Determination–to declare that we completed the tender with out colluding with other tenderers.

Self-Declaration of the Tenderer–to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal. Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in "Appendix1-Fraud and Corruption" attached on the Form of Tender.

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*]

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*]

*:In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as tenderer.

**:Person signing the Tender shall have the power of attorney given by the tenderer. The power of attorney shall be attached with the Tender Schedules.

CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the under signed, in submitting the accompanying Letter of Tender to the_____*[Name of Procuring Entity]*for:_____*[Name and number of tender]*in response to the request for tenders made by:_____*[Name of Tenderer]* do here by 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 tendering 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 there of ,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, attender ; or

   d) the submission of a tender which does not meet the specifications of there quest 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, which ever 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]

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

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

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?: 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					
	Date of birth *[dd/mm/yyyy]*					
	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?:	1. Exercises significant influence or control over the Company body of the Company (tenderer**)** Yes -----No----
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					

	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)
	Nationality(ies)				Direct……	2. Is this influence or control exercised directly or indirectly?
	Date of birth *[dd/mm/yyyy]*				Indirect……..	Direct……..
	Postal address					Indirect……
	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

SELF-DECLARATION FORMS

FORM SD1

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

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

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

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

4. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

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

Bidder Official Stamp

FORM SD2

SELFDECLARATIONTHATTHEPERSON/TENDERERWILLNOTENGAGEINANYCORRUPTORFRAUDULENTPRACTICE

I,.....of P.O.Box.....being a resident of .....in the Republic of.....do here by make a Statement as follows:-

1. THAT I am the Chief Executive/Managing Director/Principal Officer/ Director of..... ….....……...……*(insert name of the Company)* who is a Bidder in respect of **TenderNo**.....for.....*(insert tender title/ description)* for.....*(insert name of the Procuring entity)*and duly authorized and competent to make this statement.

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

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

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

5. THATwhatisdeponedtohereinaboveistruetothebestofmyknowledgeinformationandbelief.

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

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

I do here by 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…….....……

NameoftheFirm/Company…….....……

Date…….....……

(Company Seal/Rubber Stamp where applicable)

Witness

Name…….....…….

Sign…….....……

Date…….....……

APPENDIX1-FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

1.1 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.33of2015)* 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

2.1 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 perparagraphs1.1above.

2.2 Kenya's public procurement and asset disposal act *(no.33of2015)* under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt ,Coercive, Obstructive, Collusive or Fraudulent practices ,and Conflict so f 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 sub section(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 in to a contract for a procurement or asset disposal proceeding; or
   b) if a contract has already been entered in to with the person, the contract shall be voidable;
4) The voiding of a contract by the procuring entity under subsection (7) does not limitany legal remedy the procuring entity may have;
5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity 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 subcontract or for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

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

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.

2.3 IncompliancewithKenya'slaws,regulationsandpoliciesmentionedabove,theProcuringEntity:

a) Definesbroadly,forthepurposesoftheaboveprovisions,thetermssetforthbelowasfollows:

   i) “corruptpractice”istheoffering,giving,receiving,orsoliciting,directlyorindirectly,ofanythingofvalu etoinfluenceimproperlytheactionsofanotherparty;

ii) "Fraudulent practice" is any actor 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) "coercivepractice"isimpairingorharming,orthreateningtoimpairorharm,directlyorindirectly,anypartyorthepropertyofthepartytoinfluenceimproperlytheactionsofaparty;

v) "obstructive practice " is:

- Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making falsestatementstoinvestigatorsinordertomateriallyimpedeinvestigationbyPublicProcurement RegulatoryAuthority(PPRA)oranyotherappropriateauthorityappointedbyGovernmentofKenyaintoallegationsofacorrupt,fraudulent,coercive,orcollusivepractice;and/orthreatening,harassing,orintimidatinganypartytopreventitfromdisclosingitsknowledgeofmattersrelevanttotheinvestigationorfrompursuingtheinvestigation;or

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

b) Definesmorespecifically,inaccordancewiththeaboveprocurementActprovisionssetforthforfraudulentand collusivepracticesasfollows:

"Fraudulent practice" includes a misrepresentation off actin order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity 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 the procuring entity 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 incorrupt, 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) PursuanttoSection62oftheaboveAct,requiresApplicants/TendererstosubmitalongwiththeirApplications/ Tenders/Proposalsa"Self-DeclarationForm"asincludedintheprocurementdocumentdeclaringthattheyandallpartiesinvolvedintheprocurementprocessandcontractexecutionhavenotengaged/willnotengageinanycorruptorfraudulentpractices.

[1] *For the avoidance of doubt, a party's in eligibility 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 the Procuring Entity to address specific matters related to investigations/ audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption ,through h the appropriate a 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 there of as relevant; accessing an dexa mining any other documents ,data and information (whether in hardcopy 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.*

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*]

TenderNameandIdentification:.....[*insertidentification*

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

e_____of_____pages

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

TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

a) 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 in formation on this Form.

A. Tenderer's details

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

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.

	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 the Procuring Entity.

i) Are there any person/persons in.....(*Name of Procuring Entity)* who has an interest or relationship in this firm?

Yes/No.....If yes, provide details as follows.

	Names of Person	Designation in the Procuring Entity	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 the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

On behalf of the Tenderer, I certify that the information given above is correct.

Full Name

_____

Title or Designation _____

(Signature) *(Date)*

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 Identification:.....*[insert identification* Alternative No.:.....*[insert identification No if this is a Tender for an alternative].*

Page_____of_____pages

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

Price Schedule Forms

*[The tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the Procuring Entity in the Schedule of Requirements.]*

PriceSchedule:GoodsManufacturedOutsideKenya,tobeImported

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

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

PriceSchedule:GoodsManufacturedOutsideKenya,alreadyimported*

(Group C Tenders, Goods already imported) Currencies in accordance with ITT 15									Date: _____ ITT No: _____ Alternative No: _____ Page N° _____ of _____		
1	2	3	4	5	6	7	8	9	10	11	12
Line Item N°	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITT 14.8(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITT 14.8(c)(ii), [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITT 14.8 (c) (iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITT 14.8(c)(i) (Col. 5×8)	Price per line item for inland transportation and other services required in Kenya to convey the goods to their final destination, as specified in TDS in accordance with ITT 14.8 (c)(v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITT 14.8(c)(iv)	Total Price per line item (Col. 9+10)
[insert number of the item]	*[insert name of Goods]*	*[insert country of origin of the Good]*	*[insert quoted Delivery Date]*	*[insert number of units to be supplied and name of the physical unit]*	*[insert unit price per unit]*	*[insert custom duties and taxes paid per unit]*	*[insert unit price net of custom duties and import taxes]*	*[insert price per line item net of custom duties and import taxes]*	*[insert price per line item for inland transportation and other services required in Kenya]*	*[insert sales and other taxes payable per item if Contract is awarded]*	*[insert total price per line item]*
										Total Tender Price	

Name oftenderer.....*[insert complete name of tenderer]* Signature of tenderer.....*[signature of person signing the Tender]* Date.....*[insert date]**[For previously imported Goods, the quoted price shall be distinguish able from the original import value of these Goods declared to customs and shall include any rebateor mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Procuring Entity. For clarity, the tenderers are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]*

PriceSchedule:GoodsManufacturedinKenya

Kenya _____ (Group A and B Tenders) Currencies in accordance with ITT15 Date: _____

ITT No: _____

Alternative No: _____

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

Page N° _____ of _____

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

Price and Completion Schedule-Related Services

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

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

FORM OF TENDER SECURITY-DEMAND BANK GUARANTEE

Beneficiary:_____

ITTNo:_____

Date:_____

TENDER GUARANTEE No.:_____

Guarantor:_____

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

2. Further more, 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, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding total amount of____(_____)upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand it self 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 there to 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. 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.

_____

[signature(s)]

FORMOFTENDERSECURITY(TENDERBOND)

[The Surety shall fill in this Tender Bond Form in accordance with the instructions indicated.]

BOND NO._____

1. BY THIS BOND.....*[name of tenderer]* as Principal (here in after called“ the Principal”),and.....*[name, legal title ,and address of surety]* ,**authorized to transact business in** *[name of country of Procuring Entity]*,as Surety (here in after called“ the Surety”),are held and firmly bound unto.....*[name of Procuring Entity]* as Obliged (here in after called“ the Procuring Entity”) in the sum of.....*[amount of Bond]*[1] *[amount in words]*,for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns ,jointly and severally, firmly by these presents.

2. WHERE AS the Principal has submitted or will submit a written Tender to the Procuring Entity dated the _____day_____of_____,20_____,for the supply of _____*[name of Contract]*(here in after called the“ Tender”).

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

   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 there to 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 there to 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 Surety undertakes to immediately pay to the Procuring Entity up to the above amount p onreceipt 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. The Surety here by agrees that its obligation will remain in full force and effect up to and including the date 30 days after the date of expiration of the Tender Validity Period set for thin the Principal's Letter of Tender or any extension there to provided by the principal.

5. INTESTIMONY WHERE OF, the Principal and the Surety have caused these presents to be executed in their respective names this_____day of_____20_____.

Principal:__Corporate Seal(where appropriate) Surety:_____

_____ _____

(Signature) *(Signature)*

(Printed name and title) *(Printed name and title)*

[1]The amount of the Bond shall be denominated in the currency Kenya shillings or the equivalent amount in a freely convertible currency.

FORM OF TENDER- SECURING DECLARATION

[The Bidder shall complete this Form in accordance with the instructions indicated]

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

Tender No.:.....*[insert number of tendering processes]*

To:.....*[insert complete name of*

*Purchaser]*I /We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.

2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of.....*[insert number of months or years]*starting on.....*[insert date]* ,if we are in breach of our obligation(s) under the bid conditions, because we–(a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or(b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract ,if required, or (ii)fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.

3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful l

4. Tenderer (s),upon the earlier of:
   a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
   b) Thirty days after the expiration of our Tender.

5. I/We understand that if I am /we are /in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding ,the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:……..…….....

Capacity/title(director or partner or sole proprietor,etc.)…….…….....

Name:…….....

Duly authorized to sign the bid for and on behalf of:.....*[insert complete name of*

Tenderer].Datedon.....dayof.....*[Insert date of signing]*.

Seal or stamp.

MANUFACTURER'S AUTHORIZATION FORM

[The tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letter head of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The tenderer shall include it in its Tender, if so, indicated in the TDS.]

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

ITT No.:.....*[insert number of ITT process]*Alternative No.:.....*[insert identification No if this is a Tender for an alternative]*

To:.....*[insert complete name of Procuring Entity]*WHEREAS

We.....*[insert complete name of Manufacturer],* who are official manufacturers of.....*[insert type of goods manufactured],* having factories at [insert full address of Manufacturer's factories], do here by authorize *[insert complete name of tenderer]*to submit a Tender the purpose of which is to provide the following Goods, manufactured by us.....*[insert name and or brief description of the Goods],* and to subsequently negotiate and sign the Contract.

We here by extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

Signed:.....*[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name:.....*[insert complete name(s) of authorized representative(s) of the Manufacturer]*

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

Date don_____day of__,_____*[insert date of signing]*

PART2: SUPPLYREQUIREMENTS

Section V-Schedule of Requirements

Notes for Preparing the Schedule of Requirements

The Schedule of Requirements shall be included in the Tendering document by the Procuring Entity, and shall cover, at a minimum, a description of the goods and services to be supplied and the delivery schedule.

The objective of the Schedule of Requirements is to provide sufficient information to enable tenderers to prepare their Tenders efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITT42.1.

The date or period for delivery should be carefully specified, taking into account(a) the implications of delivery terms stipulated in the Instructions to tenderers pursuant to the *Incoterms* rules that“ delivery” takes place when goods are delivered to the final place of delivery, and (b) the date prescribed here in from which the Procuring Entity's delivery obligations start (i.e., notice of award, contract signature, opening or confirmation of the letter of credit).

1. List of Goods and Delivery Schedule

LineItem N°	Description of Goods	Quantity	Physical unit	Final Destination as specified in TDS	Delivery(as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Tenderer's offered Delivery date [*to be provided by the tenderer*]
1.	SUPPLY OF FOOD STUFF (E.G. BEEF, GOAT MEAT, MUTTON, CHICKEN, EGGS, FRUITS, VEGETABLES, DRY FOODS E.G. (MAIZE, BEANS & RICE ETC)	AWR	AS PER THE PROVIDED SPECIFICATIOS	BARINGO COUNTY GOVERNMENT	AS PER THE CONTRACT SIGNED AGREEMENT	AS PER CONTRACT SIGNED AGREEMENT	

Technical Specifications

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

The TS constitute the benchmarks against which the Procuring Entity will verify the technical responsiveness of Tenders and subsequently evaluate the Tenders. Therefore, well-defined TS will facilitate preparation of responsive Tenders by tenderers, as well as examination, evaluation, and comparison of the Tenders by the Procuring Entity.

The TS shall require that all goods and materials to be incorporated in the goods be new, un used, and of the most recent or current models ,and that they incorporate all recent improvements in design and materials, unless provided for other wise in the contract.

The TS shall make use of best practices. Samples of specifications from successful similar procurements in the same country or sector may provide a sound basis for drafting the TS.

The PPRA encourages the use of metric units.

Standardizing technical specifications may be advantageous, depending on the complexity of the goods and the repetitiveness of the type of procurement. Technical Specifications should be broad enough to avoid restrictions on workmanship, materials, and equipment commonly used in manufacturing similar kinds of goods.

Standards for equipment, materials, and workmanship specified in the Tendering document shall not be restrictive. Recognized international standards should be specified as much as possible. Reference to brand names, catalogue numbers, or other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. Where un avoidable, such item description should always be followed by the words“ or substantially equivalent.” When other particular standards or codes of practice are referred to in the TS, whether from the Procuring Entity's or from other eligible countries, a statement should follow other authoritative standards that ensure at least a substantially equal quality, then the standards mentioned in the TS will also be acceptable.

Reference to brand names and catalogue numbers should be avoided as far as possible; where un avoidable the words“ or at least equivalent” shall always follow such references.

Technical Specifications shall be fully descriptive of the requirements in respect of, but not limited to, the following:

Standards of materials and workmanship required for the production and manufacturing of the Goods.

Any sustainable procurement technical requirements shall be clearly specified.

To encourage tenderers' innovation in addressing sustainable procurement requirements, as long as the Tender evaluation criteria specify the mechanism for monetary adjustments for the purpose of Tender comparisons, tenderers may be invited to offer Goods that exceeds the specified minimum sustainable procurement requirements.

Detailed tests required (type and number).

Other additional work and/or Related Services required to achieve full delivery /completion.

Detailed activities to be performed by the Supplier, and participation of the Procuring Entity there on.

List of detailed functional guarantees covered by the Warranty and the specification of the liquidated damages to be applied in the event that such guarantees are not met.

The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. When ever necessary, the Procuring Entity shall include an additional ad-hoc Tendering form (to be an Attachment to the Letter of Tender), where the tenderer shall provide detailed in formation on such technical performance characteristics in respect to the

corresponding acceptable or guaranteed values.

When the Procuring Entity requests that the tenderer provides in its Tender apart or all of the Technical Specifications, technical schedules, or other technical information, the Procuring Entity shall specify in detail the nature and extent of the required information and the manner in which it has to be presented by the tenderer in its Tender.

If a summary of the Technical Specifications (TS) has to be provided, the Procuring Entity shall insert information in the table below. The tenderer shall prepare a similar table to justify compliance with the requirements.

Summary of Technical Specifications: The Goods and Related Services shall comply with following Technical Specifications and Standards:

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

Detailed Technical Specifications and Standards

FOODSTUFF.

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
1.	Banana sweet (ripe)	KG	As and when required		
2.	Oranges	KG	AWR		
3.	Papaws	KG	AWR		
4.	Mangoes	KG	AWR		
5.	Pineapples	KG	AWR		
6.	Passion Fruits	KG	AWR		
7.	Avocado	KG	AWR		
8.	Lemon	KG	AWR		
9.	Water Melon	PC	AWR		
10.	Assorted Apples	PC	AWR		
11.	Butternut	PC	AWR		

1. VEGETABLES

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
1.	Banana green (Matoke)	KG	AWR		
2.	Banana, Ripe	KG	AWR		
3.	Cabbages	KG	AWR		
4.	Spinach	KG	AWR		
5.	Carrots	KG	AWR		
6.	Onions Dried	KG	AWR		
7.	Onions (Kikuyu)	KG	AWR		
8.	Potatoes English 82 kg bag	Bag	AWR		
9.	Peas	KG	AWR		
10.	Sweet potatoes	Bundle	AWR		
11.	Tomatoes	KG	AWR		
12.	Maize Green	KG	AWR		
13.	Sukuma Wiki	KG	AWR		
14.	Capsicum	KG	AWR		
15.	Dania	KG	AWR		
16.	French Beans	KG	AWR		
17.	Cassava	KG	AWR		
18.	Managu	Bundle	AWR		
19.	Nduma	Bundle	AWR		
20.	Garlic	PC	AWR		
21.	Green Beans	KG	AWR		
22.	Ginger	KG	AWR		
23.	Green Pepper	KG	AWR		
24.	Aubergines (bringanya)	KG	AWR		
25.	Mushroom	KG	AWR		
26.	Brocoli	KG	AWR		
27.	Seedless Grapes	KG	AWR		
28.	Kiwi fruit	KG	AWR		

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
29.	Cauliflower	KG	AWR		
30.	Chinese cabbage	KG	AWR		
31.	Sweet Lettuce	KG	AWR		
32.	Red Cabbage	KG	AWR		
33.	White Onions	KG	AWR		
34.	Butter nut	KG	AWR		
35.	Beet root	KG	AWR		
36.	Paw paw	KG	AWR		
37.	Mangoes	KG	AWR		
38.	Apples	KG	AWR		
39.	Sweet oranges	KG	AWR		
40.	Pears	KG	AWR		
41.	Tangerine	KG	AWR		
42.	Yellow passion	KG	AWR		
43.	Tree tomato	KG	AWR		
44.	Passions	KG	AWR		
45.	Cherries (tomatoes)	KG	AWR		
46.	Lemon	KG	AWR		
47.	Kunde	KG	AWR		
48.					
49.					
50.					

2. BEEF AND GOAT MEAT/MUTTON

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
1.	Beef with bones standard grade	Kg.	As and when required		

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
2.	Beef without bones standard grade	Kg.	AWR		
3.	Liver	Kg.	AWR		
4.	Goat meat/Mutton	Kg.	AWR		
5.	Koriema	Kg.	AWR		
6.	Beef Fillet	Kg.	AWR		
7.	Matumbo	Kg.	AWR		

3. CHICKEN AND EGGS& FISH

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
1.	Chicken, Spring 1-1.2Kg minimum per Chicken	KG	As and when required		
2.	Chicken, Capon 1-1.2Kg minimum per Chicken	KG	AWR		
3.	Eggs each weighing 50gms or 1.5 kg of 30 eggs	Tray of 30 eggs	AWR		
4.	Eggs each weighing 50gms without tray (Kienyeji)	Tray	AWR		
5.	Local Chicken (Kienyeji) 1-1.2 Kg minimum per Chicken	Kg	AWR		
6.	Fish Fillets	Kg.	AWR		
7.	Fish Flakes	Kg.	AWR		
8.	Smokies	Pkt	AWR		
9.	Sausages – Beef	Pkt	AWR		
10.	Sausages – Beef	Pkt	AWR		
11.	Sausages – Beef	Pkt	AWR		

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
12.	Dum steaks-chicken	KG	AWR		
13.	Chicken wings	KG	AWR		
14.	Chicken Fillet	KG	AWR		
15.	Breast boneless	KG	AWR		
16.	Thigh boneless	KG	AWR		
17.	Pork Loins	KG	AWR		
18.	Pork Ribs	KG	AWR		
19.	Hot Dogs	KG	AWR		

4. PROVISIONS AND FOOD STUFF

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
1.	Basmati/Pishori rice 2kg	Pkt	AWR			
2.	Basmati/Pishori rice 50kg, Bag	Bag	AWR			
3.	Sindano rice 25kg bag	Bag	AWR			
4.	Premium Grade rice (Pearl) 5kg	Pkt	AWR			
5.	Premium Grade Brown rice 5kg	Pkt	AWR			
6.	Beans baked in tomato sauce 420gms	No.	AWR			
7.	Beans dried Canadian wonder 50kg bag	Bag	AWR			
8.	Beans dried Mwezi moja 50kg bag	Bag	AWR			
9.	Beans dried mwitemania 50kg bag	Bag	AWR			
10.	Beans dried Rose cocoa	Bag	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
	50kg bag					
11.	Assorted Biscuit in packet of carton	No.	AWR			
12.	Sugar Less Biscuit in packet of carton	No.	AWR			
13.	Bread Brown 400gms	No.	AWR			
14.	Bread White 400gms	No.	AWR			
15.	Buns, Scones 400gms	No.	AWR			
16.	Cooking fat ½kg tin	No.	AWR			
17.	Cooking fat 2kg tin	No.	AWR			
18.	Cooking fat 1kg tin	No.	AWR			
19.	Cooking fat 5kg tin	No.	AWR			
20.	Cooking fat 17kg tin	No.	AWR			
21.	Cooking Vegetable Oil ½ltr	No.	AWR			
22.	Cooking Vegetable Oil 1ltr	No.	AWR			
23.	Cooking Vegetable Oil 2ltrs	No.	AWR			
24.	Cooking Vegetable Oil 3ltrs	No.	AWR			
25.	Cooking Vegetable Oil 5ltrs	No.	AWR			
26.	Cooking Vegetable oil 20 Lt tin	No.	AWR			
27.	Corned beef 340gms tin	No.	AWR			
28.	Dehydrated dried vegetables 250gms pkt	Pkt.	AWR			
29.	Enriched whole maize meal with vitamins and iron 1kg pkt	Pkt	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
30.	Fortified rice and soy protein meal mix veg. vitamins and minerals (Pkt of 390gms)	No.	AWR			
31.	Fresh milk ½ltr, Pkt	No.	AWR			
32.	Fresh milk 1ltr, Pkt	No.	AWR			
33.	Fresh milk 5ltrs, Jerican	No.	AWR			
34.	Fermented Milk (Mala) ½ltr, Pkt	No.	AWR			
35.	Milk powder 25kg bag – dried skimmed	No.	AWR			
36.	Milk powder 5 kg tin – dried skimmed	No.	AWR			
37.	Milk powder 2 kg tin – dried skimmed	No.	AWR			
38.	Milk powder 1 kg tin – dried skimmed	No.	AWR			
39.	Milk powder 400/410gms tin – dried skimmed	No.	AWR			
40.	Nan	No.	AWR			
41.	High Energy Nutritional Biscuits (Pkt of 4Kg Printed G.K.)	No.	AWR			
42.	Flour, White, Baking 2 kg pkt	No.	AWR			
43.	Flour, Brown, Baking 2 kg pkt	No.	AWR			
44.	Flour, White, Baking (2kgx12 bale)	Bundle	AWR			
45.	Flour, Brown, Baking (2kgx12 bale)	Bundle	AWR			
46.	Flour, White, Baking 5 kg	No.	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
	Bag					
47.	Flour, White, Baking 10 kg Bag	No.	AWR			
48.	Flour, White, Baking 50 kg Bag	No.	AWR			
49.	Flour, White, Baking 100 kg Bag	No.	AWR			
50.	Jam pineapple 500gms tin	No.	AWR			
51.	Macaroni 500gms	No.	AWR			
52.	Flour, Maize meal sifted grade 1, 1kg Pkt	Pkt	AWR			
53.	Flour, Maize meal sifted grade 1, 2kg Pkt	Pkt	AWR			
54.	Flour, Maize meal sifted grade 1 (2kgx12 bale)	Bundle	AWR			
55.	Flour, Maize meal sifted grade 1, 5kg Bag	Pkt	AWR			
56.	Flour, Maize meal sifted grade 1, 10kg Bag	Pkt	AWR			
57.	Flour, Maize meal sifted grade 1, 20kg Bag	Pkt	AWR			
58.	Flour, Maize meal sifted grade 1, 50kg Bag	Pkt	AWR			
59.	Flour, Maize meal, 90k bag (Posho)	Bag	AWR			
60.	Consoya blend (CSB) Flour 25 kg	Bag	AWR			
61.	Maize whole dried 50kg bag	Bag	AWR			
62.	Margarine 10kg tin	No.	AWR			
63.	Margarine 1kg tin	No.	AWR			
64.	Margarine 500gms tin	No.	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
65.	Margarine 250gms tin	No.	AWR			
66.	Marmalade 25kg tin	No.	AWR			
67.	Millet (wimbi) 90 kg bag	Bag	AWR			
68.	Millet (wimbi) flour 90kg bag	Bag	AWR			
69.	Mixed fruit jam 500gms tin	No.	AWR			
70.	Moon green (Ndengu) 90kg bag	No.	AWR			
71.	Natural pineapple juice unsweetened 500gms tin	No.	AWR			
72.	Orange Marmalade 1kg tin	No.	AWR			
73.	Peas processed 420gms tin	No.	AWR			
74.	Pineapple pieces tinned 432gms tin	No.	AWR			
75.	Pineapple tinned 500gms	No.	AWR			
76.	Ready Cooked Instant Hot Meal Rice+Sauce+Meat 500gms	No.	AWR			
77.	Ready Cooked Instant Hot Meal Rice+Sauce+Vegetable 500gms	No.	AWR			
78.	Red Plum Jam 25kg tin	No.	AWR			
79.	Red-plum jam 500gms	No.	AWR			
80.	Salt (common salt) ½kg pkt	No.	AWR			
81.	Salt (common salt) 1kg pkt	No.	AWR			
82.	Salt (common salt) 2kg pkt	No.	AWR			
83.	Salt (common salt) 5kg	No.	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
	pkt					
84.	Salt (common salt) 20kg pkt	No.	AWR			
85.	Self raising flour 2kg pkt	No.	AWR			
86.	Service biscuit 150gms	No.	AWR			
87.	Sindano rice grade 1 50kg bag	Bag	AWR			
88.	Sorghum flour bag of 80kg	No.	AWR			
89.	Spaghetti 250gms	No.	AWR			
90.	Straw Berry Jam 500gms tin	No.	AWR			
91.	Straw Berry Jam 3kg tin	No.	AWR			
92.	Straw Berry Jam 25kg tin	No.	AWR			
93.	Sugar 1kg Pkt	Pkt	AWR			
94.	Sugar 2kg bag	Pkt	AWR			
95.	Sugar 50kg bag	Bag	AWR			
96.	Sugar 100kg bag	Bag	AWR			
97.	Sweetener – Sugar Less	Pkt	AWR			
98.	Tea leaves 250gms pkt	No.	AWR			
99.	Tea leaves 500gms pkt	No.	AWR			
100.	Tea leaves bags (2gmsx100) pkt	No.	AWR			
101.	Tea leaves bags (2gmsx50)	No.	AWR			
102.	Tea leaves green Label 50gms pkt	No.	AWR			
103.	Tea masala 100gms	No.	AWR			
104.	Coffee, Premium Grade, 400gms, Tin	No.	AWR			
105.	Cocoa, Premium Grade, 400gms, Tin	No.	AWR			
106.	Blue band	No.	AWR			
107.	Nescafe Premium Grade, 400gms	No.	AWR			
108.	Chocolate, Premium Grade, 400gms, Tin	No.	AWR			
109.	Uji mix (porridge	Pkts	AWR			

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	BRAND / COUNTRY OF ORIGIN	PRICES PER UNIT DELIVERED	REMARKS
	ingredients maize, sorghum, soya, millet, vitamins and iron 500gms					
110.	Uni-instant hot meal	Pkt	AWR			
111.	Uni-mix 25kg bag	Bag	AWR			
112.	Weetabix 450gms	No.	AWR			
113.	Drinking Mineral Water 500ml	Pack	AWR			
114.	Drinking Mineral Water 20ltrs	No.	AWR			
115.	Assorted flavor ready to drink juice 0.5ltrs packet	Dz	AWR			
116.	Cookies Tropical Sweets 400gm	Pkt	AWR			
117.	Soda, Assorted flavors 500ml	Dz	AWR			
118.	Soda, Assorted flavors 300ml	Crate	AWR			
119.	Soda, Coke Zero, 300ml	Dz	AWR			
120.	Redbull Energy drink 300ml	Dz	AWR			

NON FOOD ITEMS

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
1.	5000 lts storage water tanks	NO	As and when required		
2.	10,000 lts storage water tanks	NO	AWR		
3.	1 doz. 800gms bar soup	NO	AWR		

ITEM N◦.	ITEM DESCRIPTION	UNIT OF ISSUE	QUANTITY	PRICES PER UNIT DELIVERED	REMARKS
4.	1 doz. 700gms oil soap bar	NO	AWR		
5.	Ordinary student blanket	NO	AWR		
6.	Ordinary student bed sheet	NO	AWR		
7.	Mosquito Net	NO	AWR		
8.	Medium density student mattress (blue 3x4)	NO	AWR		
9.	Medium density metal box	NO	AWR		
10.	Sleeping Matts	NO	AWR		

PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTIONVI-GENERAL CONDITIONS OF CONTRACT

Definitions

In the Conditions of Contract ("these Conditions"), which include Special Conditions, Parts A and B, and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires other wise.

"Contract" means the Contract Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to there in, including all attachments, appendices, and all documents incorporated by reference there in.

"Contract Documents" means the documents listed in the Contract Agreement, including any amendments there to.

"Contract Price" means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments there to or deductions there from, as may be made pursuant to the Contract.

"Day" means calendar day.

"Completion" means the fulfilment of the Related Services by the Supplier in accordance with the terms and conditions set for thin the Contract.

"GCC" means the General Conditions of Contract.

"Goods" means all of the commodities, raw material, machinery and equipment, and/ or other materials that the Supplier is required to supply to the Procuring Entity under the Contract.

"Procuring Entity" means the Procuring Entity purchasing the Goods and Related Services, as specified in the SCC.

"Related Services" means the services incidental to the supply of the goods ,such as insurance, delivery, installation, commissioning, training and initial maintenance and other such obligations of the Supplier under the Contract.

"SCC" means the Special Conditions of Contract.

"Subcontractor" means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

"Supplier" means the person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

"Base Date" means a date 30 day prior to the submission of tenders.

"Laws" means all national legislation, statutes, ordinances, and regulations and by-laws of any legally constituted public authority.

"Letter of Acceptance" means the letter of formal acceptance, signed by the contractor. Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.

"Procuring Entity" means the Entity named in the Special Conditions of Contract.

Interpretation

If the context so requires it, singular means plural and vice versa.

Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by Incoterms specified in the SCC.

The terms EXW and CIP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the SCC and published by the International Chamber of Commerce in Paris, France.

Contract Documents

Subject to the order of precedence set for thin the Contract Agreement, all documents forming the Contract (and all parts there of) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole. The documents forming the Contract shall be interpreted in the following order of priority:

The Contract Agreement,

The Letter of Acceptance,

The General Conditions of Contract

Special Conditions of Contract

The Form of Tender,

The Specifications and Schedules of the Drawings (if any),and

The Schedules of Requirements, Price Schedule and any other documents forming part of the Contract.

Fraud and Corruption

The supplier shall comply with anti-corruption laws and guidelines and the prevailing Sanctions, policies and procedures as set out in the Laws of Kenya.

The Supplier shall disclose any commissions ,gratuity or fees that may have been paid or are to be paid to agents or any other person with respect to the Tendering process so rexecution 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.

4.1 Entire Agreement

4.3.1The Contract constitutes the entire agreement between the Procuring Entity and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect there to made prior to the date of Contract.

Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party there to.

Non-waiver

Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contractor the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

Any waiver of a party's rights, powers, or remedies under the Contract must be inwriting, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

Severability

If any provision or condition of the Contract is prohibited or rendered invalid or un enforceable, such prohibition, invalidity or un enforce ability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

Language

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

The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

Joint Venture, Consortium or Association

6.1If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity for the fulfilment of the provisions of the Contract and shall designate one member of the joint venture, consortium, or association to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior written consent of the Procuring Entity.

Eligibility

The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Sub-contract or shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates inconformity with the provisions of the laws of that country.

All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

The Tenderer, if a Kenyan firm, must submit with its tender a valid tax compliance certificate from the Kenya Revenue Authority.

Notices

Any notice given by one party to the other pursuant to the Contract shall be inwriting to the address specified in the SCC. The term“ in writing” means communicated in written form with proof of receipt.

A notice shall be effective when delivered or on the notice's effective date, which ever is later.

Governing Law

The Contract shall be governed by and interpreted in accordance with the laws of Kenya.

Through out the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in Kenya:

where, as a matter of law, compliance or official regulations, Kenya prohibits commercial relations with that country or any import of goods from that country or any payments to any country, person, or entity in that country; or

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 from that country or any payments to any country, person, or entity.

Settlement of Disputes

The Procuring Entity and the Supplier shall make every effort to resolve amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the Contract.

If, after thirty(30)days, the parties have failed to resolve their dispute or difference by such mutual

consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence

arbitration, as here in after provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

Arbitration proceedings shall be conducted as follows:

Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause10. 1shall be finally settled by arbitration.

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 thirty days of the occurrence or discovery of the matter or issue giving rise to the dispute.

Not with standing 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.

The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, 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 due payments.

Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for the dispute given in its notice of a claim or dispute.

Arbitration may be commenced prior to or after delivery of the goods. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the delivery of goods.

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.

Arbitration Proceedings

Arbitration proceedings with national suppliers will be conducted in accordance with the Arbitration Laws of Kenya. Incase of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with are quest 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 or persons 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;

Kenya National Chamber of Commerce

Chartered Institute of Arbitrators (Kenya Branch)

The Law Society of Kenya

The institution written to first by the aggrieved party shall take precedence over all other institutions.

Alternative Arbitration Proceedings

Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

Arbitration with Foreign Suppliers

Arbitration with foreign suppliers shall be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more

arbitrators appointed in accordance with said arbitration rules.

The place of arbitration shall be allocation specified in the SCC; and the arbitration shall be conducted in the language for communications defined in Sub-Clause1.4 [Law and Language].

Alternative Arbitration Proceedings

Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and inter national arbitration with commitment to providing institutional support to the arbitral process.

Failure to Comply with Arbitrator's Decision

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

10.6.1 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.

Contract operations continue

Not with standing any reference to arbitration herein,

The parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

The Procuring Entity shall pay the Supplier any monies due the Supplier.

Inspections and Audit by the Procuring Entity

The Supplier shall keep, and shall cause its Subcontractors to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time, changes and costs.

Pursuant to paragraph2.2 of Instruction to Tenderers, the Supplier shall permit and shall cause its subcontractors to permit, the Procuring Entity and/or persons appointed by the Procuring Entity or by other statutory bodies of the Government 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 the Procuring Entity. The Supplier's and its Subcontractors' attention is drawn to Sub-Clause3. 1 which provides, interalia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights constitute a prohibited practice subject to contract termination, as well as to a determination of ineligibility.

Scope of Supply

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

Delivery and Documents

13.1 Subject to GCC Sub-Clause 33.1, the delivery of the Goods and completion of the Related Services shall be in accordance with the List of Goods and Delivery Schedule specified in the Supply Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.

Supplier's Responsibilities

14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause12, and the Delivery and Completion Schedule, asper GCC Clause13.

Contract Price

Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorized in the SCC.

Where the contract price is different from the corrected tender price, in order to ensure the supplier is not paid less or more relative to the contract price (*which would be the tender price*), any partial payment valuation based

On rates in the schedule of prices 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)/tender priceX100*.

Terms of Payment

The Supplier shall request for payment by submitting invoice(s), delivery note (s)and any other relevant documents as specified in the SCC to the Procuring Entity.

Payments shall be made promptly by the Procuring Entity, but not later than thirty(30) days after submission of an invoice by the Supplier, and after the Procuring Entity has accept edit.

Where a Procuring Entity rejects Goods and Related Services, in part or wholly, the procuring Entity shall promptly inform the Supplier to collect, replace or rectify as appropriate and give reasons for rejection. The Supplier shall submit afresh invoice, delivery note and any other relevant documents as specified in the SCC.

The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the Tender price is expressed.

In the event that the Procuring Entity fails to pay the Supplier any payment by its due date or with in the period set forth in the SCC, the Procuring Entity may pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

Taxes and Duties

17.1 The Supplier shall be entirely responsible for all taxes, duties, license fees, and other such levies incurred to deliver the Goods and Related Services to the Procuring Entity at the final delivery point.

17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Kenya, the Supplier shall inform the Procuring Entity and the Procuring Entity shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allow able extent.

Performance Security

If required as specified in the SCC, the Supplier shall, within twenty-eight(28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the SCC.

The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

As specified in the SCC, the Performance Security, if required, shall be denominated in the currency (ies) of the Contract, or in a freely convertible currency acceptable to the Procuring Entity; and shall be in one of the formats stipulated by the Procuring Entity in the SCC, or in another form at acceptable to the Procuring Entity.

The Performance Security shall be discharged by the Procuring Entity and returned to the Supplier not later than thirty(30)days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

Copyright

19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring Entity by the Supplier here in shall remain vested in the Supplier, or, if they are furnished to the Procuring Entity directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

Confidential Information

The Procuring Entity and the Supplier shall keep confidential and shall not, without the written consent of the

other party here to, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party here to in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Not with standing the above, the Supplier may furnish to its Sub-Supplier such documents, data, and other information it receives from the Procuring Entity to the extent required for the Sub Supplier to perform its work under the Contract, in which event the Supplier shall obtain from such Sub Supplier undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause20.

The Procuring Entity shall not use such documents, data, and other information received from the Supplier for any purposes un related to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the performance of the Contract.

The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

The Procuring Entity or Supplier need to share with other arms of Government or other bodies participating in the financing of the Contract; such parties shall de disclosed in the SCC;

Now or here after enters the public domain through no fault of that party;

Can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

Other wise law fully becomes available to that party from a third party that has no obligation of confidentiality.

The above provisions of GCC Clause 20 shall not in anyway modify any undertaking of confidentiality given by either of the parties here to prior to the date of the Contract in respect of the Supply or any part there of.

The provisions of GCC Clause 20 shall survive completion or termination, for what ever reason, of the Contract.

Sub contracting

The Supplier shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in the Tender. Such notification, in the original Tender or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

Subcontracts shall comply with the provisions of GCC Clauses 3 and7.

Specifications and Standards

Technical Specifications and Drawings

The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.

The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification there of provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.

Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Procuring Entity and shall be treated in accordance with GCC Clause33.

Packing and Documents

The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be

sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Procuring Entity.

Insurance

24.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Inco terms or in the manner specified in the SCC.

Transportation and Incidental Services

Unless otherwise specified in the SCC, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

The Supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

Performance or supervision of on-site assembly and /or start-up of the supplied Goods;

Furnishing of tools required for assembly and/or maintenance of the supplied Goods;

Furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;

Performance or supervision or maintenance and/ or repair of the supplied Goods, for a period of time a greed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and

Training of the Procuring Entity's personnel ,at the Supplier's plant and /or on-site, in assembly, start-up, operation, maintenance, and/ or repair of the supplied Goods.

Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed up on in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services

Inspections and Tests

The Supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/ or inspections of the Goods and Related Services as a respecified in the SCC.

The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and / or at the Goods' final destination, or in another place in Kenya as specified in the SCC. Subject to GCC Sub-Clause26.3 ,if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.

Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

The Procuring Entity may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's

performance of its other obligation sunder the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

The Supplier shall provide the Procuring Entity with are port of the results of any such test and/or inspection.

The Procuring Entity may reject any Goods or any part there of that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts there of or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub-Clause 26.4.

The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part there of, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

Liquidated Damages

27.1Except as provided under GCC Clause32, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the delivered price of the delayed Goods or un performed Services for each week or part there of of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to GCC Clause 35.

Warranty

The Supplier warrants that all the Goods are new, un used, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

Subject to GCC Sub-Clause22.1 (b),the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

Unless otherwise specified in the SCC, the warranty shall remain valid for twelve(12) months after the Goods, or any portion there of as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, which ever period concludes earlier.

The Procuring Entity shall give notice to the Supplier stating the nature of any such defects together with all available evidence there of, promptly following the discovery there of. The Procuring Entity shall afford all reason able opportunity for the Supplier to inspect such defects.

Upon receipt of such notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts there of, at no cost to the Procuring Entity.

If having been notified, the Supplier fails to remedy the defect with in the period specified in the SCC, the Procuring Entity may proceed to take with in a reason able period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract.

Patent Indemnity

The Supplier shall, subject to the Procuring Entity's compliance with GCC Sub-Clause29.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Procuring Entity may suffer as a result of any in fringement or all eged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

The installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and

The sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part there of other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part there of, or any products produced there by in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause29.1, the Procuring Entity shall promptly give the Supplier a notice there of, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Supplier fails to notify the Procuring Entity within twenty-eight (28)days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.

The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reason able expenses incurred in so doing.

The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

Limitation of Liability

Except incases of criminal negligence or willful misconduct,

The Supplier shall not be liable to the Procuring Entity, whether in contract, to rt, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity, and

The aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, into or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Procuring Entity with respect to patent infringement.

Change in Laws and Regulations

Unless otherwise specified in the Contract, if after the date of 30days prior to date of Tender submission, any law, regulation, ordinance ,order or by law having the force of law is enacted, promulgated, abrogated, or changed in Kenya(which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/ or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has there by been affected in the performance of any of its obligation sunder the Contract. Not with standing the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause15.

Force Majeure

The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

For purposes of this Clause,“ Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is un avoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

If a Force Majeure situation arises, the Supplier shall promptly notifytheProcuringEntityinwritingofsuchconditionandthecausethereof.UnlessotherwisedirectedbytheProcuring Entityinwriting,theSuppliershallcontinuetoperformitsobligationsundertheContractasfarasisreasonablypractical, andshallseekallreasonablealternativemeansforperformancenotpreventedbytheForceMajeureevent.

Change Orders and Contract Amendments

The Procuring Entity may at anytime order the Supplier through notice in accordance GCC Clause8, to make changes with in the generals cope of the Contract in any one or more of the following:

drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;

the method of shipment or packing;

the place of delivery; and

the Related Services to be provided by the Supplier.

If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight(28)days from the date of the Supplier's receipt of the Procuring Entity's change order.

Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed up on in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

Value Engineering: The Supplier 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;

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

A full cost/benefit analysis of the proposed change(s)including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and

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

The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

Accelerates the delivery period; or

Reduces the Contract Price or the life cycle costs to the Procuring Entity; or

Improves the quality, efficiency or sustain ability of the Goods; or

yield s any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

If the value engineering proposal is approved by the Procuring Entity and results in:

A reduction of the Contract Price; the amount to be paid to the Supplier shall be the percentage specified in the SCC of the reduction in the Contract Price; or

An increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in

to(d)above, the amount to be paid to the Supplier shall be the full increase in the Contract Price.

Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

Extensions of Time

If at any time during performance of the Contract, the Supplier or its subcontract ors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause13, the Supplier shall promptly notify the Procuring Entity inwriting of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

Except incase of Force Majeure, as provided under GCC Clause32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

Termination

Termination for Default

The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

If the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension there of granted by the Procuring Entity pursuant to GCC Clause34;

If the Supplier fails to perform any other obligation under the Contract; or

If the Supplier, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix to the GCC, in competing for or in executing the Contract.

In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause35.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those un delivered or not performed, and the Supplier shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

Termination for Insolvency.

The Procuring Entity may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or other wise in solvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue there after to the Procuring Entity

Termination for Convenience.

The Procuring Entity, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at anytime for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination be comes effective.

The Goods that are complete and ready for shipment within twenty-eight(28)days after the Supplier's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect:

To have any portion completed and delivered at the Contract terms and prices; and/or

To cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

Assignment

36.1 Neither the Procuring Entity nor the Supplier shall as sign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

Export Restriction

37.1 Not with standing any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Kenya, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Procuring Entity that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Procuring Entity's convenience pursuant to Sub-Clause35.3.

SECTIONVII-SPECIALCONDITIONS OF CONTRACT

The following Special Conditions of Contract (SCC) shall supplement and/or amend the General Conditions of Contract (GCC). When ever there is a conflict, the provisions here in shall prevail over those in the GCC.

[The Procuring Entity shall select insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics].

Number of GC Clause	**Amendments of, and Supplements to, Clauses in the General Conditions of Contract**
GCC 1.1(h)	The Procuring Entity is: **COUNTY GOVERNMENT OF BARINGO**
GCC 4.2 (a)	**NOT APPLICABLE-** The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties thereunder shall not be as prescribed by Incoterms, they shall be as prescribed by:
GCC 4.2 (b)	**NOT APPLICABLE**-The version edition of Incoterms shall be *INCOTERMS 2015*
GCC 8.1	For **notices**, the Procuring Entity's address shall be: Attention: **DIRECTOR SUPPLY CHAIN MANAGEMENT SERVICES** Postal address **(P.O.BOX 53-30400 KABARNET)** Physical Address (full Location Address- **AFC BUILDING ALONG KABARNET ELDORET ROAD**
GCC 10.4.2	The place of arbitration shall be ----------N/A-------- (specify City and Country).
GCC 13.1	**NOT APPLICABLE** Details of Shipping and other Documents to be furnished by the Supplier are *[insert the required documents, such as a negotiable bill of lading, a non-negotiable sea way bill, an airway bill, a railway consignment note, a road consignment note, insurance certificate, Manufacturer's or Supplier's warranty certificate, inspection certificate issued by nominated inspection agency, Supplier's factory shipping details etc.N/A* The above documents shall be received by the Procuring Entity before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.
GCC 15.1	**NOT APPLICABLE** The prices charged for the Goods supplied and the related Services performed s*hall not* be adjustable. If prices are adjustable, the following method shall be used to calculate the price adjustment
GCC 16.1	***Sample provision-NOT APPLICABLE*** GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: **A. Payment for Goods supplied from abroad:** Payment of foreign currency portion shall be made in *[insert currency of the Contract Price]* in the following manner**: N/A** (i) **Advance Payment:** Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and, in the form, provided in the Tendering document or another form acceptable to the Procuring Entity. (ii) **On Shipment:** Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favour of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 12. (iii) **On Acceptance:** Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Procuring Entity. B. **Payment of local currency portion of a foreign Supplier shall be made in** Kenya

	shillings within thirty (30) days of presentation of claim supported by a certificate from the Procuring Entity declaring that the Goods have been delivered and that all other contracted Services have been performed. **C. Payment for Goods and Services supplied from within Kenya:** Payment for Goods and Services supplied from within Kenya shall be made in __KSH___ *[* as follows: (i) **Advance Payment:** Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract against an invoice and a bank guarantee for the equivalent amount and in the form provided in the Tendering document or another form acceptable to the Procuring Entity. (ii) **On Delivery:** Eighty (80) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 13. The bank guarantee shall then be released. (iii)**On Acceptance:** The remaining ten (10) percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Procuring Entity.
GCC 16.5	The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be days **N/A** The interest rate that shall be applied is ***N/A***
GCC 18.1	A Performance Security *[insert shall NOT be required]* *[If a Performance Security is required, insert "the amount of the Performance Security shall be: [insert amount]* *[The amount of the Performance Security is usually expressed as a percentage of the Contract Price. The percentage varies according to the Procuring Entity's perceived risk and impact of non-performance by the Supplier. A 10% percentage is used under normal circumstances]*
GCC 18.3	If required, the Performance Security shall be in the form of: *[insert "a Demand Guarantee" or" a Performance Bond"]* If required, the Performance security shall be denominated in *[insert "a freely convertible currency acceptable to the Procuring Entity" or "the currencies of payment of the Contract, in accordance with their portions of the Contract Price"]*
GCC 18.4	Discharge of the Performance Security shall take place: *[insert date if different from the one indicated in sub clause GCC 18.4]**N/A***
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: *[insert in detail the type of packing required, the markings in the packing and all documentation required]* **N/A**
GCC 24.1	The insurance coverage shall be as specified in the Incoterms. If not in accordance with Incoterms, insurance shall be as follows: *[insert specific insurance provisions agreed upon, including coverage, currency and amount]*
GCC 25.1	Responsibility for transportation of the Goods shall be as specified in the Incoterms. If not in accordance with Incoterms, responsibility for transportations shall be as follows: *[insert "The Supplier is required under the Contract to transport the Goods to a specified place of final destination within* Kenya*, defined as the Project Site, transport to such place of destination in* Kenya*, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price"; or any other agreed upon trade terms (specify the respective responsibilities of the Procuring Entity and the Supplier) –NOT APPLICABLE*
GCC 25.2	Incidental services to be provided are: *[Selected services covered under GCC Clause 25.2 and/or other should be specified with the desired features. The price quoted in the Tender price or agreed with the selected*

	Supplier shall be included in the Contract Price.]
GCC 26.1	The inspections and tests shall be: *BASED ON THE SPECIFICATIONS PROVIDED*
GCC 26.2	The Inspections and tests shall be conducted at: WHERE THE GOODS ARE LOCATED
GCC 27.1	The liquidated damage shall be: [*insert number]* % per week NOT APPLICABLE
GCC 27.1	The maximum amount of liquidated damages shall be: *[insert number]* %-NOT APPLICAPLE
GCC 28.3	The period of validity of the Warranty shall be:…….. days For purposes of the Warranty, the place(s) of final destination(s) shall be:-NOT APPLICABLE ***Sample provision*** GCC 28.3—In partial modification of the provisions, the warranty period shall be _____ hours of operation or _____ months from date of acceptance of the Goods or (_____) months from the date of shipment, whichever occurs earlier. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either: (a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with GCC 26.7, **or** (b) pay liquidated damages to the Procuring Entity with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be (_____). *[The rate should be higher than the adjustment rate used in the Tender evaluation under TDS 34.6(f)]*
GCC 28.5, GCC 28.6	The period for repair or replacement shall be: *[insert number(s)]* days.
GCC 33.6	If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Supplier shall be ___% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price.

SECTION VIII- CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful tenderer after contract award.

FORM No1: 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 Tender Information Form on the format below.

FORMAT

1. For the attention of Tenderer's Authorized Representative

   I) Name:_____*[insert Authorized Representative's name]*

   ii) Address:_____*[insert Authorized Representative's Address]*

   iii) Telephone:_____*[insert Authorized Representative's telephone/fax numbers]*

   iv) 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.]

2. Date of transmission:_____[*email*]on[*date*]_____(local time)

   This Notification is sent by_____(*Name and designation*)_____

3. Notification of Intention to Award

   I) Employer:_____*[insert the name of the Employer]*

   ii) Project:_____*[insert name of project]*

   iii) Contract title:_____*[insert the name of the contract]*

   iv) Country:_____*[insert country where ITT is issued]*

   v) 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 Stand still Period. During the Stand still Period, you may:

4. Request a debriefing in relation to the evaluation of your tender

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

   a) The successful tenderer

      i) Name of successful Tender_____

      ii) Address of the successful Tender_____

      iii) Contract price of the successful Tender Kenya Shillings_____(in words _____)

   b) Other Tenderers

   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 read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

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

(Note a)State NE if not evaluated

5. How to request a debriefing

DEADLINE: The deadline to request a debriefing expires at midnight ton[*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 (5) 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*]

ii) Title/position:__[*insert title/position*]

Agency:_____[*insert name of Employer*]

Email address:[*insert email address*]

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

The debriefing may be inwriting, 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)Days from the date of publication of the Contract Award Notice.

How to make a complaint

Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*](local 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 Employer*]

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 Stand still Period and received by us before the Stand

still Period ends.

Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website www.ppra.go.keoremailcomplaints@ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

There are four essential requirements:

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 to fa Notification of Intention to Award.

The complaint can only challenge the decision to award the contract.

You must submit the complaint within the period stated above.

You must include, in your complaint, all of the information required to support your complaint.

Stand still Period

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

The Stand still Period lasts (14) Days after the date of transmission of this Notification of Intention to Award.

The Stands till Period may be extended as stated in paragraph Section 5(d) above.

If you have any questions regarding this Notification please do not hesitate to contact us.

On behalf of the Employer:

Signature:____Name:_____Title/position:_____

_____Telephone:_____Email:_____

FORMNO2: NOTIFICATION OF AWARD-LETTEROFACCEPTANCE

[letter head paper of the Employer]

_____*[date]*

To___*[name and address of the Contractor]*

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 Contract Data]*for the Accepted Contract Amount*[amount in numbers and words][name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is here by accepted by_____*(name of Employer)*.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature:_Name and Title of Signatory: __Name of Employer:____Attachment: *Contract Agreement:*___

NOTIFICATION OF AWARD-LETTER OF ACCEPTANCE

[use letter head paper of the Procuring Entity]

_____*[date]*

To:___*[name and address of the Supplier]*

Subject:_____*Notification of Award Contract No.....*

This is to notify you that your Tender dated_____*[insert date]*for execution of the *[insert name of the contract and identification number, as given in the SCC]* for the Accepted Contract Amount of__*[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to tenderers is here by accepted by our Agency.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X,C on tract Forms, of the Tendering document.

Authorized Signature:_Name and Title of Signatory:___Name of Agency:_____

Attachment: Contract Agreement

FORM NO 3-CONTRACTAGREEMENT

[The successful tenderer shall fill in this form in accordance with the instructions indicated]

THIS AGREEMENT made the_____*[insert: number]*day of_____*[insert: month],[insert: year]*.BETWEEN(1)_____*[insert complete name of Procuring Entity* and having its principal place of business at*[insert: address of Procuring Entity]* (here in after called" Procuring Entity"),of the one part; and(2)*[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]*and having its principal place of business at*[insert: address of Supplier]*(here in after called" the Supplier"),of the other part.

WHERE AS the Procuring Entity invited Tenders for certain Goods and auxiliary services, viz.,_*[insert brief description of Goods and Services]*and has accepted a Tender by the Supplier for the supply of those Goods and Services, the Procuring Entity and the Supplier agree as follows:

In this Agreement words and expressions shall have the same meanings as are respectively assigned to the min the Contract documents referred to.

The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.

The Letter of Acceptance

The Letter of Tender

The Addenda Nos.___(if any)

Special Conditions of Contract

General Conditions of Contract

The Specification (including Schedule of Requirements and Technical Specifications)

The completed Schedules (including Price Schedules)

Any other document listed in GCC as forming part of the Contract

In consideration of the payments to be made by the Procuring Entity to the Supplier as specified in this Agreement, the Supplier here by covenants with the Procuring Entity to provide the Goods and Services and to remedy defects there in inconformity in all respects with the provisions of the Contract.

The Procuring Entity here by covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects there in, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS where of the parties here to have caused this Agreement to be executed inaccordance with the laws of Kenya on the day, month and year indicated above.

For and on behalf of the Procuring Entity

Signed: _____*[insert signature]*

In the capacity of____*[insert title or other appropriate designation]*In the presence of_____*[insert identification of official witness]*For and on behalf of the Supplier

Signed:_____*[insert signature of authorized representative(s) of the Supplier]* in the capacity of_____ _____*[insert title or other appropriate designation]*in the presence of_____*[insert identification of official witness]*

FORM NO.4-PERFORMANCE SECURITY [Option1-Unconditional Demand Bank Guarantee]

[Guarantor letter head]

Beneficiary:_____[insert name and Address of Employer]Date:___[Insert date of issue]

Guarantor:___[Insert name and address of place of issue, unless indicated in the letter head]

We have been informed that___(here in after called" the Contractor") has entered into Contract No._____ _____dated

_____With (name of Employer)_____(the Employer as the Beneficiary), for the execution of__(here in after called" the Contract").

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

At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(in words), [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 the rein.

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 the office indicated above on or before that date.

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]

FORMNo.5-PERFORMANCE SECURITY[Option2–Performance Bond]

Beneficiary:_____[insert name and Address of Employer]Date:___[Insert date of issue]

PERFORMANCE BOND No.:

Guarantor:___[Insert name and address of place of issue, unless indicated in the letter head]

By this Bond_____ as Principal (here in after called“ the Contractor”)and _____]as Surety (here in after called“ the Surety”),are held and firmly bound unto_____] as Obliged (here in after called“ the Employer”)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.

WHERE AS the Contractor has entered in to a written Agreement with the Employer dated the__dayof,20 _____,for____in accordance with the documents, plans, specifications, and amendments there to, which to the extent here in provided for, are by reference made part here of and are here in after referred to as the Contract.

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

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

Obtain a tender or tenders from qualified tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions ,and upon determination by the Employer and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contractor 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 here under, the amount set forth in the first paragraph here of. The term“ Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Employer to Contract or under the Contract, less the amount properly paid by Employer to Contractor; or

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

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

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 the Employer named here in or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony thereof, the Contractor has therefore set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly at tested by the signature of his legal representative, this day_____of_____20_____.

SIGNEDON_____on behalf of By_in the capacity of In the presence of

SIGNEDON__on behalf of

By___in the capacity of in the presence of

FORMNO.6-ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]

[Guarantor letter head]

Beneficiary:_____[Insert name and Address of Employer]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 letter head]

We have been informed that_____(here in after called“ the Contractor”)has entered into Contract No. _____dated__with the Beneficiary, for the execution of_____(here in after called" the Contract").

Further more, we understand that, according to the conditions of the Contract, an advance payment in the sum

_____(in words)is to be made against an advance payment guarantee.

At the request of the Contractor, we as Guarantor, here by irrevocably under take to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(in words_____)[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:

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

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

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 Contractor on its account number_____at_____

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contract or 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 theday of__,2_____,[2]which ever is earlier.

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

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]