



**TENDER FOR PROVISION OF PHOTOGRAPHY VIDEOGRAPHY  
AND AUDIO VISUAL SERVICES (RESTRICTED TO YOUTH,  
WOMEN AND PERSONS WITH DISABILITY OWNED FIRMS)**

**TENDER NO: CA/PROC/OT/03/2017-2018**

**CLOSING DATE:16/08/2017**

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## SECTION I INVITATION TO TENDER

**1.0 TENDER REF NO.:** (CA/PROC/RFQ/03/2017-2018)

**TENDER NAME: TENDER FOR PROVISION OF PHOTOGRAPHY,VIDEOGRAPHY AND AUDIO VISUAL SERVICES.**

From time to time each year Communications Authority of Kenya requires audiovisual equipment for use during its various meetings conducted in Nairobi and its environs. Due to the frequency of the meeting and the short timelines given, it becomes difficult to source for quotations each time. To alleviate this challenge, the Authority wishes to partner with audio visual service providers by entering into a framework agreement (contract) whereby the supplier will be required to offer the services as and when required during a contract period of two (2) years at the rates submitted during the tendering process.

In this regards *Communications Authority of Kenya (CA)* invites firms owned by **Youth, Women and Persons with Disability** to quote for the provision of photography, videography and audiovisual services for use as and when required for a period of two (2) years. The prices submitted should therefore be valid for a period of two years from the time of acceptance of offer. Please submit your corporate rates using the format submitted in the tender document.

Interested candidates may obtain complete tender document *Free of Charge* from the **Procurement office CA Centre 2<sup>nd</sup> floor within working hours.**

Tenderers who may wish to make clarifications on the tender document are advised to do so through the email address [tenders@ca.go.ke](mailto:tenders@ca.go.ke) Seven (7) days before the closing date for records and for purposes of receiving clarifications and/or addendums, if any.

Prices quoted should be net inclusive of all taxes, delivery to the venue cost and cost of the technician or photographer/videographer and shall remain valid during the contract period of two (2) years .

Completed tender documents in plain, sealed envelope clearly marked;

**“CA/PROC/OT/03/2016-2017 – “TENDER FOR PROVISION OF PHOTOGRAPHY,VIDEOGRAPHY AND AUDIO VISUAL SERVICES”**

Should be deposited in our tender box located on the ground floor of the CA Centre or mailed to the address below, so as to reach on or before **16<sup>th</sup> August, 2017 at 2.30 p.m.**

## **SECTION II - INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible Tenderers**

2.1.1 This tender is restricted to **Youth Women and Persons with Disability owned firms** as described in the Invitation to Tender..

2.1.2 The Authority's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

2.1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### **2.3 Cost of Tendering**

2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Authority, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

2.3.2 All firms found capable of performing the contract satisfactorily in accordance with the set prequalification criteria shall be prequalified.

### **2.4 The Tender Document**

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

- (i) Invitation to Tender
- (ii) Instructions to tenderers
- (iii) General Conditions of Contract
- (iv) Tender Form and Price Schedules
- (v) Contract Form
- (vi) Confidential Business Questionnaire

2.4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

### **2.5 Clarification of Documents**

2.5.2 A prospective tenderer requiring any clarification of the tender document may notify the Authority in writing or by post at the Authority's address indicated in the Invitation to Tender. The Authority will respond in writing to any request for clarification of the Tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the Authority. Written copies of the Authority's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers

that have received the tender document.

- 2.5.3 The Authority shall reply to any clarifications sought by the tenderer within 7 days of receiving the request to enable the tenderer to make timely submission of its tender.

## 2.6 **Amendment of Documents**

- 2.6.1 At any time prior to the deadline for submission of tenders, the Authority for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.

- 2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.

- 2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Authority, at its discretion, may extend the deadline for the submission of tenders.

## 2.7 **Language of Tender**

- 2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## 2.8 **Documents Comprising of Tender**

- 2.8.1 The tender prepared by the tenderers shall comprise the following components
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
  - (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;

## 2.9 **Tender Forms**

- 2.9.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating services to be provided

## 2.10 **Tender Prices**

- 2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit rates and total price of the services it proposes to provide under the contract

- 2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and

delivery to the premises to venue.

2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22

2.10.4 The validity period of the tender shall be two (2) years from the date of acceptance of the offer.

## **2.1 Tender Currencies**

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## **2.12 Tenderers Eligibility and Qualifications**

2.12.1 Pursuant to paragraph 2.1. The tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if it's tender is accepted.

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Authority's satisfaction that the tenderer, at the time of submission of its tender, that they have the required equipment and the capacity to provide the services that may be required.

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Authority's satisfaction;

- (a) that the tenderer has the financial, capability and equipment necessary to perform the contract;
- (b) that, in the case a tenderer does not own the equipment needed to provide the services, they must provide valid agreements for lease of the equipment required.

## **2.13 2.15 Validity of Tenders**

2.15.1 Tenders shall remain valid contract period of two years or as specified in the Invitation to tender after the date of letter of acceptance A tender valid for a shorter period shall be rejected by the Authority as non- responsive.

## **2.16 Format and Signing of Tender**

2.16.1 The bidder shall prepare one copy of the tender,

2.16.2 The original copy of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons

signing the tender.

- 2.16.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

## **2.17 Sealing and Marking of Tenders**

- 2.17.1 The Tenderer shall seal the original copy of the tender in an envelope.

2.17.2 The envelope shall:

(a) Be addressed to the Authority at the address given in the Invitation to Tender:

(a) Bear, tender number and name in the Invitation for Tenders and the words, “DO NOT

OPEN BEFORE,” **16<sup>th</sup> August 2017 at 2.30 p.m.**

- 2.17.3 If the envelope is not sealed and marked as required by paragraph 2.17.2, the Authority will assume no responsibility for the tender’s misplacement or premature opening.

## **2.18 Deadline for Submission of Tenders**

- 2.18.1 Tenders must be received by the Authority at the address specified under paragraph 2.17.2 no later **16<sup>th</sup> August 2017 at 2.30 p.m.**

2.18.2 The Authority may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Authority and candidates previously subject to the deadline will therefore be subject to the deadline as extended

## **2.19 Modification and Withdrawal of Tenders**

2.19.1 The tenderer may modify or withdraw its tender after the tender’s submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Authority prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.19.3 No tender may be modified after the deadline for submission of tenders.

2.19.4 No tender may be withdrawn 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 Tender Form. Withdrawal of a tender during this interval may result in the Tenderer’s forfeiture of its tender

security, pursuant to paragraph 2.14.7

2.19.5 The Authority may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 The Authority shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.20 Opening of Tenders**

2.20.1 The Authority will open all tenders in the presence of tenderer' representatives who choose to attend, at 2.30 PM on **16<sup>th</sup> August, 2017 at 2.30 p.m.** and in the location specified in the Invitation to Tender.

The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.20.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Authority, at its discretion, may consider appropriate, will be announced at the opening.

2.20.3 The Authority will prepare minutes of the tender opening.

## **2.21 Clarification of Tenders**

2.21.1 To assist in the examination, evaluation and comparison of tenders the Authority may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.21.2 Any effort by the tenderer to influence the Authority in the Authority's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.22 Preliminary Examination**

2.22.1 The Authority will examine the tenders to determine whether they are complete, whether the documents have been properly signed, and whether the tenders are generally in order.

2.22.2 The Authority may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.22.3 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Authority will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and



conditions of the tender documents without material deviations. The Authority’s determination of a tender’s responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.22.4 If a tender is not substantially responsive, it will be rejected by the Authority and may not subsequently be made responsive by the tenderer by correction of the non- conformity.

**2.23 Evaluation Process**

The tenders submitted will be evaluated in two (2) stages; General Mandatory and Financial. The evaluation process will be in stages as follows: -

- a. General Mandatory –Pass/Fail
- b. Financial – Lowest Evaluated cost bidder

**2.23.1 General Evaluation criteria**

The bids shall undergo a general pre-qualification process in order to determine bid compliance to the following mandatory requirements. Tenderers are required to comply to the following requirements, failure to which the firm shall not proceed with the next stage of evaluation: -

**A. Mandatory Evaluation**

<b>NO.</b>	<b>REQUIREMENTS</b>	<b>Pass</b>	<b>Fail</b>
	<b>Mandatory Requirements</b>		
MR1	A )Must Submit copies of the following documents: Certificate of Registration/Incorporation		
	a) Valid Tax Compliance Certificate		
	b) Proof of ownership of equipment required (as per the list in the price schedule)		
	c) Proof of financial capacity to execute the contract (Attach bank statements for a year period of line of credit from a reputable bank		
	d) Copy of CR12 Certificate or its equivalent		
MR2	Valid AGPO Certificate		
MR3	Dully filled and signed Business Questionnaire		
MR4	Dully filled form of tender		
	<b>Remarks</b>		

Failure to submit any of the above-mentioned documentation, will lead to disqualification of the firm at the mandatory stage. The bidders that will meet all the mandatory requirements above will qualify to proceed to Financial evaluation stage.

### C. Financial Evaluation

The lowest priced bid will be considered for the works

	<b>Item Description</b>	<b>Unit of measure</b>	<b>Qty</b>	<b>Unit cost (Kshs.)</b>
1	Table microphones	Each	1	
2	<b>LCD Screens</b>			
	96" by 96"	Each	1	
	50" by 50"	Each	1	
	60" by 60"	Each	1	
	72" by 72"	Each	1	
	8M X 4.5M	Each	1	
3	Power Extension Cables	Each	1	
4	PA system with one cordless microphones	Each		
5	<b>PROJECTOR</b>			
	7500 lumens	Each	1	
	2,000 lumens	Each	1	
	2,500 lumens	Each	1	
	3,000 lumens	Each	1	
	4,500 lumens	Each	1	
	Cordless microphones	Each	1	
6	D &B B2 Speakers	Each	1	
7	B2 SUBS	Each	1	
8	Dyanacord speakers	Each	1	
9	Supply of computer laptops intecore i 5	Each	1	
10	Gooseneks Micro flex Mic	Each	1	

11	M7CL digital Mixer	Each	1	
12	Stage Monitors	Each	1	
13	D1 for audio playback for laptops	Each	1	
14	AV- Christies LX 605	Each	1	
15	4 WAY DVI/ VGA Distribution watch out media server	Each	1	
16	23" preview screen	Each	1	
17	10MX390 Boom base	Each	1	
18	<p>-provision of photography and videography.</p> <p>-provision of professional photography to capture the events</p> <p>-edited video should be of broadcast quality</p> <p>Photographs should be of high- resolution digital format and should be both in DVD and hard copies. The video should continuously record proceedings of the forum</p>	Each	<p>20 hard copy</p> <p>200 soft copy in CD</p>	
19	Lapel microphone	Each	1	
20	Supply and installation of LED panels	Each	1	
21	Supply of 55" plasma screens	Each	1	
<b>Grand total cost</b>				

2.23.2 Any effort by a tenderer to influence the Authority in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

## 2.24 Contacting the Authority

2.24.1 Subject to paragraph 2.21 no tenderer shall contact the Authority on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

## 2.25 Award of Contract

### (a) Post-qualification

- 2.25.1 In the absence of pre-qualification, the Authority will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.
- 2.25.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Authority deems necessary and appropriate.
- 2.25.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Authority will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**(b) Award Criteria**

- 2.25.4 The Authority will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

**(c) Authority's Right to Vary quantities**

- 2.25.5 The Authority reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions

**(d) Authority's Right to accept or Reject any or All Tenders**

- 2.25.6 The Authority reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Authority's action

**2.26 Notification of Award**

- 2.26.1 Prior to the expiration of the period of tender validity, the Authority will notify the successful tenderer in writing that its tender has been accepted.
- 2.26.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties
- 2.26.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Authority will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

## **2.27 Signing of Contract**

- 2.27.1 At the same time as the Authority notifies the successful tenderer that its tender has been accepted, the Authority will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.
- 2.27.2 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 2.27.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Authority.

## **2.28 Performance Security (Not Required)**

- 2.28.1 Within Thirty (30) days of the receipt of notification of award from the Authority, the successful tenderer shall furnish the performance security of **5%** of the bid price in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Authority.
- 2.28.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Authority may make the award to the next lowest evaluated Candidate or call for new tenders.

## **2.29 Corrupt or Fraudulent Practices**

- 2.29.1 The Authority requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
  - (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Authority, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Authority of the benefits of free and open competition;
- 2.29.2 The Authority will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.29.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

### 3.1 **Definitions**

3.1.1 In this Contract, the following terms shall be interpreted as indicated:-

- (a) “The Contract” means the agreement entered into between the Authority and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) “The Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Authority under the Contract.
- (d) “The Authority” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Contract.

### 3.2 **Application**

3.2.1 These General Conditions shall apply in all Contracts made by the Authority for the procurement installation and commissioning of equipment

### 3.3 **Country of Origin**

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

### 3.4 **Standards**

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

### 3.5 **Use of Contract Documents and Information**

3.5.1 The tenderer shall not, without the Authority’s prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Authority in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Authority’s prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the

property of the Authority and shall be returned (all copies) to the Authority on completion of the Tenderer's performance under the Contract if so required by the Authority

### **3.6 Patent Rights**

3.6.1 The tenderer shall indemnify the Authority against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Authority's country

### **3.7 Performance Security (*Not required*)**

3.7.1 The proceeds of the performance security shall be payable to the Authority as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.2 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Authority and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Authority, in the form provided in the tender documents.

3.7.3 The performance security will be discharged by the Authority and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

### **3.8 Inspection and Tests**

3.8.1 The Authority or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Authority shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Authority.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Authority may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Authority.

3.8.4 The Authority's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Authority or its representative prior to the equipment delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.9 Packing**

3.9.1 The tenderer 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.

3.9.2 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

### **3.10 Delivery and Documents**

3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Authority in its Schedule of Requirements and the Special Conditions of Contract

### **3.11 Insurance**

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

### **3.12 Payment**

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Authority as specified in the contract

### **3.13 Prices**

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

3.13.4 Price variation request shall be processed by the Authority within 30 days of receiving the request.

### **3.14. Assignment**

3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Authority's Authority' prior written consent

### **3.15 Subcontracts**

3.15.1 The tenderer shall notify the Authority in writing of all subcontracts awarded under this Contract



if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

### **3.16 Termination for default**

3.16.1 The Authority may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part

- (a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the Authority
- (b) if the tenderer fails to perform any other obligation(s) under the Contract
- (c) if the tenderer, in the judgment of the Authority has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event the Authority terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, equipment similar to those undelivered, and the tenderer shall be liable to the Authority for any excess costs for such similar goods.

### **3.17 Liquidated Damages**

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the Authority shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

### **3.18 Resolution of Disputes**

3.18.1 The Authority and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

### **3.19 Language and Law**

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

### **3.20 Force Majeure**

3.20.1 The tenderer shall not be liable for forfeiture of its performance security or termination for default if and to the extent that it's delay in performance or other failure to perform its

obligations under the Contract is the result of an event of Force Majeure.

**SECTION VIII - STANDARD FORMS**

**8.1 FORM OF TENDER**

Date \_\_\_\_\_  
Tender No. \_\_\_\_\_

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

*[Communications Authority of Kenya ]*

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... *[insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and Authority ( ..... *(insert equipment description)* in conformity with the said tender documents for the sum of ..... *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and Authority the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract, in the form prescribed by .....*(Authority)*.

4. We agree to abide by this Tender for a period of ..... *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award,

shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

6. We understand that you are not bound to accept the lowest or any tender you may receive.

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

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[in the capacity of]

Duly authorized to sign tender for an on behalf of \_\_\_\_\_

**8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM**

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

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

<i>Part 1 – General:</i>			
Business			Name
.....			
Location	of	business	premises.
.....			
Plot No.....	Street/Road .....		
Postal Address .....	Tel No. ....	Fax .....	
Email .....			
Nature of Business			
.....			
Registration	Certificate		No.
.....			
Maximum value of business which you can handle at any one time – Kshs.			
.....			
Name of your bankers .....			
			Branch
.....			

**Part 2 (a) – Sole Proprietor**

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

Nationality ..... Country of origin .....

- Citizenship ..... details

.....

.....

- 

**Part 2 (b) Partnership**

Given details of partners as follows:

Name	Nationality	Citizenship Details	Shares
1. ....	.....	.....	.....
2. ....	.....	.....	.....
3. ....	.....	.....	.....
4. ....	.....	.....	.....

**Part 2 (c) – Registered Company**

Private or Public .....

State the nominal and issued capital of company-

Nominal Kshs. ....			
Issued Kshs. ....			
Given details of all directors as follows			
Name	Nationality	Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			
5.....			
Date .....		Signature of Candidate .....	

If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

**8.4 CONTRACT FORM**

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ between  
 ..... [name of Procurement entity) of .....  
 [country of Procurement entity] (hereinafter called “the Authority) of the one part and  
 ..... [name of tenderer] of ..... [city and country of tenderer] (hereinafter  
 called “the tenderer”) of the other part;

WHEREAS the Authority invited tenders for certain goods ] and has accepted a tender by the tenderer for the supply of those goods in the sum of ..... [contract price in words and figures] (hereinafter called “the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to:

2. The following documents shall be deemed to form and be read and construed as part of this Agreement viz:

- (a) the Tender Form and the Price Schedule submitted by the tenderer
- (b) the Schedule of Requirements
- (c) the Technical Specifications
- (d) the General Conditions of Contract
- (e) the Special Conditions of contract; and
- (f) the Authority's Notification of Award

3. In consideration of the payments to be made by the Authority to the tenderer as hereinafter mentioned, the tender hereby covenants with the Authority to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract

4. The Authority hereby covenants to pay the tenderer in consideration of the provisions of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Authority

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the  
tenderer in the presence of \_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*