



**COMMUNICATIONS  
AUTHORITY OF KENYA**

**NATIONAL TENDER FOR SUPPLY, DELIVERY,  
INSTALLATION AND MAINTENANCE OF AN  
ENTERPRISE BACKUP SYSTEM  
TENDER NO: CA/PROC/OT/22/2019-2020**

**SUBMISSION DEADLINE**

**5<sup>TH</sup> FEBRUARY 2020 AT 10.30 AM**

**Director-General  
Communications Authority of Kenya  
Waiyaki Way  
P.O. Box 14448  
Westlands, 00800  
Nairobi, Kenya  
Tel: 4242000**

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## SECTION I – INVITATION TO TENDER (ITT)

**TENDER REF NO**                      **CA/PROC/OT/21/2019- 2020**

- 1.1 The Communications Authority of Kenya (CA) is the ICT industry regulator with responsibilities in telecommunications e-commerce, broadcasting, and postal /courier services. CA is also responsible for protecting the rights of ICT consumers and for managing the country’s numbering and spectrum resources.
- 1.2 CA wishes to invite interested and eligible firms to participate in the tender for supply, delivery and maintenance of the enterprise backup system
- 1.3 Interested eligible candidates may obtain further information from and inspect the tender documents at Procurement Office, 2<sup>nd</sup> Floor Wing A, upon payment of non- refundable fee of **Kenya Shillings One Thousand (Kshs 1,000)** only either in cash or bankers Cheque payable to the **Communications Authority of Kenya**
- 1.4 The Tender document can also be accessed and downloaded from the Public Procurement Information Portal (PIIP) supplier portal (<https://www.tenders.go.ke/website/tenders/Index> and the Authority’s website: [www.ca.go.ke](http://www.ca.go.ke) free of charge. The firms that download the document must arrange to forward their particulars/contacts to the Head of Procurement, Communications Authority of Kenya, through email address [tenders@ca.go.ke](mailto:tenders@ca.go.ke) before the closing date for records and for the purposes of receiving clarifications and/or addendums, if any.
- 1.5 Bidders are required to undertake serialization of all bid documents as per requirements of the Public Procurement and Asset Disposal Act (PPADA), 2015 clause 74(1)(i) to enable safeguard loss of documentation during and after evaluation.
- 1.6 Prices quoted should be net inclusive of all taxes and associated costs, must be expressed in Kenya shillings and shall remain valid for a period of 150 days from the closing date of the tender.
- 1.7 Duly completed tender documents, in a plain sealed envelope marked: **“CA/PROC/OT/22/2019-2020 –“ TENDER FOR SUPPLY, DELIVERY, INSTALLATION AND MAINTENANCE OF AN ENTERPRISE BACKUP SYSTEM”** Should be deposited in our Tender Box located on the Ground floor of our Headquarter building, along Waiyaki Way on or before **5<sup>th</sup> February, 2020 at 10.30 a.m.**

**The Head of Procurement**  
**Communications Authority of Kenya**  
**P.O Box 14448**  
**Nairobi 00800**  
**Tel:**                                      **+254 (020) 4242000**  
**Mobile:**                                **+254 703-042000**  
**Website:**                              [www.ca.go.ke](http://www.ca.go.ke)

- 1.8 Bids shall be opened immediately thereafter in the presence of the Bidders' representative(s) who choose to attend at the Authority's meeting room 2 Ground floor.

## SECTION II - INSTRUCTIONS TO TENDERERS

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

### **2.1 Eligible Tenderers**

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.
- 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 provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Authority 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.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### **2.2 Eligible Goods**

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

### **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 The price to be charged for the tender document shall be Kshs.1,000/=
- 2.3.3 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 any 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) Special Conditions of Contract
  - (v) Schedule of requirements
  - (vi) Technical Specifications
  - (vii) Tender Form and Price Schedules
  - (viii) Tender Security Form
  - (ix) Contract Form
  - (x) Performance Security Form
  - (xi) Bank Guarantee for Advance Payment Form
  - (xii) Manufacturer's Authorization Form
  - (xiii) 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**

- 2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Authority in writing or by post at the address indicated in the Invitation to Tender. The Authority will respond in writing to any request for clarification of the tender documents that 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 who will have received the tender document.
- 2.5.2 The Authority shall reply to any clarifications sought by the tenderer within 3 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 who will 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 own 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 the Authority, 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;
- (c) Documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
- (d) Tender security furnished in accordance with paragraph 2.14

## **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 the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

## **2.10 Tender Prices**

2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract.

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the Authority.

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 150 days from the date of opening of the tender.



## **2.11 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 its 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, is from an eligible source country as defined under paragraph 2.1

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, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) That the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) That, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## **2.13 Goods Eligibility and Conformity to Tender Documents**

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) A detailed description of the essential technical and performance characteristic of the goods;
- (b) A list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and

- continuing functioning of the goods for a period of ten (10) years, following commencement of the use of the goods by the Authority ; and
- (c) A clause-by-clause commentary on the Authority's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **2.14 Tender Security**

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.

2.14.2 The tender security shall be in the amount of **Kshs. 100,000** in form of a bank guarantee or Insurance Company approved by the Public Procurement Regulatory Authority (PPRA)

2.14.3 The tender security is required to protect the Authority against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Authority and valid for **thirty (30) days** beyond the validity of the tender.

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Authority as non responsive, pursuant to paragraph 2.22

2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Authority.

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

- (a) if a tenderer withdraws its tender during the period of tender validity specified by the Authority on the Tender Form; or
- (b) in the case of a successful tenderer, if the tenderer fails:
  - (i) to sign the contract in accordance with paragraph 2.27
  - or
  - (ii) to furnish performance security in accordance with paragraph 2.28

## **2.15 Validity of Tenders**

- 2.15.1 Tenders shall remain valid for 150 days or as specified in the Invitation to Tender after the date of tender opening prescribed by the Authority, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Authority as non responsive.
- 2.15.2 In exceptional circumstances, the Authority may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

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

- 2.16.1 The Tenderer shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.16.2 The original and all copies 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. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. 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 and each copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.
- 2.17.2 The inner and outer envelopes shall:
  - (a) be addressed to the Authority at the address given in the Invitation to Tender:

(b) bear, tender number and name in the Invitation for Tenders and the words, ***“DO NOT OPEN BEFORE,” (Wednesday, 5<sup>th</sup> February 2020 at 10:30am.)***

2.17.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.17.4 If the outer 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**

Tenders must be received by the Authority at the address specified under paragraph 2.17.2 no later than ***(Wednesday, 5<sup>th</sup> February 2020 at 10:30am.)***

2.18.1 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**

The Authority will open all tenders in the presence of tenderers' representatives who choose to attend on (*Wednesday, 5<sup>th</sup> February 2020 at 10:30am.*) and in the location specified in the Invitation to Tender.

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

- 2.20.1 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.
- 2.20.2 . 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 during the 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 any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.22.2 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity
- 2.22.3 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 effect the relative ranking of any tenderer.
- 2.22.4 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.

2.22.5 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 Conversion to Single Currency**

2.23.1 Where other currencies are used, the Authority will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.24 Evaluation and Comparison of Tenders**

2.24.1 The Authority will evaluate and compare the tenders which will have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

2.24.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Preference**

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 10%

## **2.26 Contacting the Authority**

2.26.1 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.

2.26.2 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.

## **2.27 Award of Contract**

### **(a) Post-qualification**

2.27.1 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.

2.27.2 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.

2.27.3 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**

2.27.4 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**

2.27.5 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**

2.27.6 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

**2.28 Notification of Award**

2.28.1 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.

2.28.2 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

2.28.3 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

**2.29 Signing of Contract**

2.29.1 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.

2.29.2 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.

2.29.3 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.

### **2.30 Performance Security**

2.30.1 Within Thirty (30) days of the receipt of notification of award from the Authority, the successful tenderer shall furnish the performance security 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.

2.30.2 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.

### **2.31 Corrupt or Fraudulent Practices**

2.31.1 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 any thing 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;

2.31.2 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.

2.31.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.



## Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS															
2.1.1	The national tender is open to all firms that Kenyans own one hundred percent shares															
2.14.1	Tender security of <b>Kshs.100,000</b> Valid 30 days beyond the tender validity period.															
2.15.1	Tenders shall remain valid for 150 days															
2.18.1	Tender closes on Wednesday, 5 <sup>th</sup> February 2020 at 10:30am															
2.22.2	<b>Bidders should AVOID ARITHMETIC ERRORS In reference to section 82 of the PPAD Act 2015 which states that:-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 any way by any person or entity. Bids with arithmetic errors shall be disqualified at the financial evaluation stage.</b>															
2.24	<p><b><i>Evaluation criteria</i></b></p> <p>Evaluation will be undertaken through a four-stage process as detailed below:</p> <ul style="list-style-type: none"> <li>I. Mandatory Evaluation- Pass/Fail basis</li> <li>II. Technical Mandatory Compliance Evaluation -Pass/Fail basis</li> <li>III. Technical Capacity Evaluation –Pass/Fail</li> <li>IV. Financial Evaluation - Lowest Evaluated bidder</li> </ul> <p><b>STAGE 1: MANDATORY REQUIREMENTS</b></p> <table border="1" data-bbox="488 1486 1552 1955"> <thead> <tr> <th data-bbox="495 1495 565 1524">No.</th> <th data-bbox="565 1495 1325 1524">Requirement</th> <th data-bbox="1325 1495 1546 1524">Pass/Fail</th> </tr> </thead> <tbody> <tr> <td data-bbox="495 1524 565 1591">1.</td> <td data-bbox="565 1524 1325 1591">Certificate of Incorporation/Registration</td> <td data-bbox="1325 1524 1546 1591"></td> </tr> <tr> <td data-bbox="495 1591 565 1665">2.</td> <td data-bbox="565 1591 1325 1665">Attach a Valid Tax Compliance Certificate.</td> <td data-bbox="1325 1591 1546 1665"></td> </tr> <tr> <td data-bbox="495 1665 565 1812">3.</td> <td data-bbox="565 1665 1325 1812">The tender is exclusively reserved to firms that Kenyans own one hundred percent (100%) shares. The bidder must submit a CR12 Form obtained from Attorney General’s office showing the shareholders of the firm</td> <td data-bbox="1325 1665 1546 1812"></td> </tr> <tr> <td data-bbox="495 1812 565 1955">4.</td> <td data-bbox="565 1812 1325 1955">Tender security of <b>KES. 100,000.00</b> must be in form of Bank Guarantee from a reputable bank or an Insurance Bond from Insurance Company and approved by Public Procurement Regulatory Authority (PPRA)</td> <td data-bbox="1325 1812 1546 1955"></td> </tr> </tbody> </table>	No.	Requirement	Pass/Fail	1.	Certificate of Incorporation/Registration		2.	Attach a Valid Tax Compliance Certificate.		3.	The tender is exclusively reserved to firms that Kenyans own one hundred percent (100%) shares. The bidder must submit a CR12 Form obtained from Attorney General’s office showing the shareholders of the firm		4.	Tender security of <b>KES. 100,000.00</b> must be in form of Bank Guarantee from a reputable bank or an Insurance Bond from Insurance Company and approved by Public Procurement Regulatory Authority (PPRA)	
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5.	Audited accounts for the last 3 years (2016, 2017 and 2018)	
6.	Duly filled, signed and stamped Form of Tender	
7.	Duly filled, signed and stamped Confidential Business Questionnaire	
8.	A statement signed by authorised signatory confirming that the tenderer is a manufacturer of the proposed equipment to be supplied.  Where the bidder is an agent of a manufacturer of the equipment to be supplied then, the manufacturer must fill in and sign the manufacturer's Authorization form.	
9.	Dully filled and signed Anti-corruption form	

Bid evaluation shall be on the basis of pass/fail and any bid failing in any of the general pre-qualification (mandatory requirements) will not proceed to the technical mandatory compliance evaluation stage.

**STAGE 2: TECHNICAL MANDATORY COMPLIANCE EVALUATION**

Technical bid evaluation shall be on the basis of **Complied/Not complied** and any bid failing in any of the technical compliance evaluation stage will **not** proceed to the technical capacity evaluation stage.

**Technical evaluation stage - Compliance (C) /Non Compliance (NC)**

No.	Item	Technical Specifications	Expected compliance	If complied, Bidders MUST provide explanation of compliance with reference to datasheet or bill of materials with the specific page number and section of the reference
1.	Type	Backup Software	Ability to perform full, selective and incremental backup for databases, applications, operating system files and folders providing filters with search strings and patterns (for files and directories).	
2.	Backup	Built-in	Manage agent-	

		Capabil ity	management Agent for Microsoft Windows and Linux	based backup capabilities directly inside the Backup & Replication console, including a single pane of glass for Availability of virtual, physical and cloud workloads, centralized backup agent deployment and Windows Server Failover Cluster support.	
			Configuration Profiles	Ability to create predefined set of backup configuration profiles with basic configurations which can be edited to suit various requirements.	
			Compression	Support an effective compression technology that saves space of more than half of the original space.	
			Image-level Virtual Machine (VM) backups	Create application-consistent backups with advanced application-aware processing.	
			Backup from Storage Snapshots	Generate ultra-fast backups with low Recovery Point Objectives (RPOs) from storage snapshots	
			Scale-out Backup Repository	Ability to create single virtual pool of backup storage including support for on-premises	
			Cloud	Ability to perform	

			Connect	cloud backup	
			Recoverability	Ability to automatically test and verify every backup and every virtual machine (VM) for recoverability.	
			Instant Virtual Machine (VM) Recovery	Recover a failed VM in less than two minutes	
	3.	Recovery Capability	Instant File-Level Recovery:	Ability to recover Operating System (OS) files and folders	
			Recover with added confidence	Ability to restore backups with confidence by adding security, antivirus and intrusion prevention capabilities	
			Recovery of Microsoft Active Directory	Ability to instantly recover individual AD objects and entire containers, easily, recover user accounts and passwords, enable restores of Group Policy Objects (GPOs), Active Directory-integrated DNS and records	
			Explorer for Microsoft Exchange	Ability to for instant visibility and granular recovery of individual Exchange items, including hard-deleted items	
			Explorer for Microsoft SharePoint	Ability to for instant visibility into SharePoint backups, easily find and recover specific	

				SharePoint items as well as individual sites	
			Explorer for Microsoft SQL Server	Fast transaction and table-level recovery of SQL databases allowing for precise point-in-time restore	
			Explorer for Oracle	Transaction-level recovery of Oracle databases, including agentless transaction log backups, enabling precise point-in-time restore	
			Explorer for Storage Snapshots	Ability to recover single files and entire VMs from the storage snapshots of the storage solutions such as NetApp, EMC, HP, etc.	
4.	Replication Capability	Image-based Virtual Machine (VM) replication	Ability to replicate VMs on site for high-Availability or offsite for disaster recovery		
		Cloud Connect Replication	Fast and secure cloud-based disaster recovery (DRaaS) through a Service Provider		
		Recoverability	Ability to automatically test and verify every VM replica for recoverability		
		Failover and Failback	Ability for replica rollback and assisted failover and failback with little to no business interruption		
5.	Operating System	Operating Systems	Ability to support with all windows and Linux		

	Support		applications	
6.	Training	User training	Hands on instructor on system administration training to a minimum of ten (10) technical staff on the proposed Backup solution	
			Bidders must provide training details such as training modules, number of training days	
7.	Documentation	Post-implementation project documentation	Provide post-implementation documentation as follows: User manuals	
8.	Authorization letter	Provide a manufacturer's authorization letter from the developers of the solution	System configurations hand over documents. Provide template of similar hand over document	

### STAGE 3: TECHNICAL CAPACITY COMPLIANCE EVALUATION

No.	Criteria Description	Pass/Fail
1.	<p><b><i>A Experience of the Firm</i></b></p> <p>Bidders should provide details of at least four (4) organizations where they have supplied and installed a Similar Backup System</p> <p>B. Bidders must further submit purchase order copies and recommendation letters from at least two (2) of their clients listed in 1A above.</p> <p>C. Provide at least two reference sites where successful implementation of the System has been done</p>	
2.	<p><b><i>Methodology</i></b></p> <p>Detailed work plan including plan for supply, delivery and duration of the proposed project deliverables</p>	
3.	<p><b><i>Financial Capacity</i></b></p> <p>Bidders are required to have an average annual turnover of Kshs. 10 million and above as per annual audited accounts for the last 3 years</p>	

#### STAGE 4: FINANCIAL EVALUATION CRITERIA

The bids that qualify at the technical capacity evaluation stage will be subjected to financial evaluation where the lowest cost bidder will be considered for award of the tender.

##### Notes under financial submission

- i. All costs should be inclusive of applicable taxes.
- ii. **Bidders should AVOID ARITHMETIC ERRORS** In reference to section 82 of the PPAD Act 2015 which states that:-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 any way by any person or entity. Bids with arithmetic errors shall be disqualified at the financial evaluation stage.

Bidders must break down the financial bid for each of the items as detailed below:

##### **Financial Analysis.**

No.	Items	Unit cost (Kshs.)	Total cost (Kshs.)
1.	Supply and installation of an enterprise backup system		
2.	Cost of training of at least ten (10) technical staff		
3.	Cost of post implementation maintenance & support for the supply system (Annual Cost applicable for five (5) Years.		
4.	Hourly support cost of the backup system after the expiry of the warranty period		
<b>Total cost Inclusive of 16% VAT (To be Carried to Form of Tender).</b>			

2.29.1

*As in 2.18.1 above*

2.29.1

- *Performance security of 5% for one time supply and installation*
- *Performance security of 5% for five year annual maintenance after supply and installation*

**SECTION III: GENERAL CONDITIONS OF CONTRACT**

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## **SECTION III - GENERAL CONDITIONS OF CONTRACT**

### **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**

- 3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Authority the performance security in the amount specified in Special Conditions of Contract.
- 3.7.2 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.
- 3.7.3 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.
- 3.7.4 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 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 IV - SPECIAL CONDITIONS OF CONTRACT**

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

42. Special conditions of contract as relates to the GCC

<b>REFERENCE OF GCC</b>	<b>SPECIAL CONDITIONS OF CONTRACT</b>
3.7.1	<ul style="list-style-type: none"><li>• <i>Performance security of 5% for one time supply and installation</i></li><li>• <i>Performance security of 5% for five year annual maintenance after supply and installation</i></li></ul>
3.12.1	<i>Terms of payment- shall be within 30 days from date of inspection and acceptance upon receipt of an official invoice and no advance payment.</i>
3.18.1	<i>Resolutions of disputes shall be through arbitration. Appoint of arbitrator to be conducted as per the arbitration act.</i>

## **SECTION V - TECHNICAL SPECIFICATIONS**

### **5.1 General**

- 5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc. for the products they intend to supply
- 5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
- 5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The Authority reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
- 5.1.4 The tenderers are requested to present information along with their offers as follows:
- (i) Shortest possible delivery period of each product
  - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

## **5.2 PARTICULARS**

### **5.2.1 TECHNICAL REQUIREMENTS**

The backup system is designed to recover from catastrophic loss, meaning complete destruction of ICT Systems or partial loss of ICT data. The purpose is to recover lost data and to bring back the systems to the state before the catastrophe.



**SECTION VI- SCHEDULE OF REQUIREMENTS**

Number	Description	Quantity	Delivery schedule (shipment)
--------	-------------	----------	------------------------------

In  
Weeks/months from \_\_\_\_\_<sup>1</sup>

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**SECTION VII - PRICE SCHEDULE FOR GOODS**

Name of tenderer \_\_\_\_\_ Tender Number \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7
Item	Description	Country of origin	Quantity	Unit price	Total Price EXW per item (cols. 4x5)	Unit price of other incidental services payable

Signature of tenderer \_\_\_\_\_

*Note:* In case of discrepancy between unit price and total, the unit price shall prevail.

## SECTION VIII - STANDARD FORMS

### Notes on the sample Forms

1. Form of Tender - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.
3. Tender Security Form - When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.
4. Contract Form - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.
5. Performance Security Form - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the Authority .
6. Bank Guarantee for Advance Payment Form - When Advance payment is requested for by the successful bidder and agreed by the Authority , this form must be completed fully and duly signed by the authorized officials of the bank.
7. Manufacturers Authorization Form - When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.

8.1 **FORM OF TENDER**

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

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

\_\_\_\_\_  
*[name and address of Authority ]*

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 and maintain the ( ..... *(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 commission 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 ..... E mail .....
Nature of Business .....	
Registration Certificate No. ....	
Maximum value of business which you can handle at any one time – Kshs. ....	
Name of your bankers .....	Branch .....

	<b>Part 2 (a) – Sole Proprietor</b>			
	Your name in full .....	Age .....		
	Nationality .....	Country of origin .....		
		• Citizenship	details	
		•	.....	
	<b>Part 2 (b) Partnership</b>			
	Given details of partners as follows:			
	Name	Nationality	Citizenship Details	Shares
	1. ....	.....	.....	.....
	2. ....	.....	.....	.....
	3. ....	.....	.....	.....
	4. ....	.....	.....	.....
	<b>Part 2 (c) – Registered Company</b>			
	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.

### 8.3 TENDER SECURITY FORM

Whereas ..... [name of the tenderer]  
(hereinafter called "the tenderer") has submitted its tender dated .....  
[date of submission of tender] for the supply, delivery and maintenance of  
.....[name and/or description of the equipment] (hereinafter  
called "the Tender") ..... KNOW ALL PEOPLE by  
these presents that WE ..... of .....  
having our registered office at ..... (hereinafter called "the Bank"),  
are bound unto ..... [name of Authority } (hereinafter called "the  
Authority ") in the sum of ..... for which payment well and  
truly to be made to the said Authority , the Bank binds itself, its successors,  
and assigns by these presents. Sealed with the Common Seal of the said Bank  
this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Authority during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Authority up to the above amount upon receipt of its first written demand, without the Authority having to substantiate its demand, provided that in its demand the Authority will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[signature of the bank] \_\_\_\_\_  
(Amend accordingly if provided by Insurance Company)

## 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)*

8.5 PERFORMANCE SECURITY FORM

To .....  
[name of Authority ]

WHEREAS ..... [name of tenderer] (hereinafter called "the tenderer") has undertaken , in pursuance of Contract No. \_\_\_\_\_  
\_\_\_\_\_ [reference number of the contract] dated \_\_\_\_\_ 20 \_\_\_\_\_ to  
supply ..... [description of goods] (hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of ..... [amount of the guarantee in words and figure] and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ..... [amount of guarantee] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signed and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]



**8.6 BANK GUARANTEE FOR ADVANCE PAYMENT FORM**

To .....  
[name of Authority ]

[name of tender] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, ..... [name and address of tenderer](hereinafter called “the tenderer”) shall deposit with the Authority a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of ..... [amount of guarantee in figures and words].

We, the ..... [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Authority on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding ..... [amount of guarantee in figures and words]

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there-under or of any of the Contract documents which may be made between the Authority and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until ..... [date].

Yours truly,

Signature and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]

## 8.7 MANUFACTURER'S AUTHORIZATION FORM

To *[name of the Authority]* .....

WHEREAS .....*[ name of the manufacturer]* who are established and reputable manufacturers of .....  
*[name and/or description of the goods]* having factories at .....  
..... *[address of factory]* do hereby authorize .....  
..... *[name and address of Agent]* to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. ....  
..... *[reference of the Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

\_\_\_\_\_

\_\_\_\_\_

*[signature for and on behalf of manufacturer]*

*Note:* This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent.

**8.8 ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE** (*Section 62 PPADA, 2015*)

I/We/Messrs..... of Street,  
Building, P O Box.....  
.....

Contact/Phone/E mail.....

I/We .....

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender name.....

Tender No .....for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name and Title of Signatory.....

**8.9 LETTER OF NOTIFICATION OF AWARD**

Address of Authority

\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_  
\_\_\_\_\_

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)* \_\_\_\_\_  
\_\_\_\_\_

SIGNED FOR ACCOUNTING OFFICER

**10.0 FORM RB 1**

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Authority* )

Request for review of the decision of the..... (*Name of the Authority* ) of  
.....dated the...day of .....20.....in the matter of Tender  
No.....of .....20...

**REQUEST FOR REVIEW**

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

- 1.
  - 2.
- etc.

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

- 1.
  - 2.
- etc

SIGNED .....(Applicant)

Dated on.....day of ...../...20...

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**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on  
..... day of .....20.....

SIGNED  
Board Secretary