



# **LUGARI DIPLOMA TEACHERS TRAINING COLLEGE**

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## **2024/2025 FINANCIAL YEAR**

### **TENDER DOCUMENT FOR**

**SUPPLY AND DELIVERY OF ONIONS AND  
TOMATOES**

**TENDER NO: LDTTC/05/2024/2025**

**DATE OF NOTICE.....23/05/2024**

**CLOSSING DATE.....06/06/2024**

**AT 10.00AM**

## TABLE OF CONTENTS

Page	INTRODUCTION .....	2
SECTION I	INVITATION TO TENDER .....	3
SECTION II	INSTRUCTIONS TO TENDERERS... ..	4
APPENDIX TO INSTITUTIONS TO TENDER... 14		
SECTION III	GENERAL CONDITIONS OF CONTRACT .....	16
SECTION IV	SPECIAL CONDITIONS OF CONTRACT .....	21
SECTION V	EVALUATION CRITERIA.....	23
SECTION VI	PRICE SCHEDULE... ..	25
SECTION VI	STANDARD FORMS .....	28
INTRODUCTION		

This standard tender document for the procurement of goods and services has been prepared for use by procuring entities in Kenya. It is to be used in the procurement of all types of goods and related services.

The following general directions should be observed when using the document.

- a) Specific details should be finished in the invitation to tender and in the special conditions of contract. The final document to be provided to the tenderers should not have blank spaces or give options.
- b) The instructions to tenderers and the general conditions of contract should remain unchanged. Any necessary amendments to these parts should be made through the appendix to the instructions to the tenderers or the general conditions of contract respectively.

Information contained in the invitation to tender shall conform to the data and information in the tender documents to enable potential tenderers to decide whether or not to participate in the tender and shall indicate any important tender requirements,

The invitation to tender shall be issued as an advertisement in accordance with the regulations or as a letter of invitation addressed to the tenderers who have expressed interest following an advertisement of a prequalification tender.

**SECTION I - INVITATION TO TENDER**

**TENDER NO** \_\_\_\_\_

**TENDER NAME** \_\_\_\_\_

1. Lugari Diploma Teachers Training College invites sealed tender for supply of goods and provision of related services for the financial year 2024-2025
2. Qualified and interested tenderers may obtain further information from the college website and inspect the tender documents at the procurement office from 8.00am-5.00pm.
3. Tendering will be conducted under open competitive method nationally using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
4. Tenders reserved for youth, women and PWD must have registration certificates for AGPO from National Treasury.
5. Open tenders are open to all qualified and interested tenderers.
6. Tender documents may be viewed and downloaded for free from the college website ([www.lugaridttc.ac.ke](http://www.lugaridttc.ac.ke)) Tenderers who download must the tender documents must forward their particulars to college email ([lugaridttc@gmail.com](mailto:lugaridttc@gmail.com))
7. Complete set of tender documents may be obtained by interested upon payment of non-refundable fee of Kenya shillings one thousand only (ksh.1000)
8. Completed tenders must be delivered to the college address below on or before **\_06/06/2024 at 10.00AM**
9. Tenders will be opened immediately after the deadline date and time specified above. Tenders will be publicly opened in the presence of tenderers designated representatives who choose to attend.
10. Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for **120 days** from the closing date of the tender.
11. Late tenders will be rejected.
12. Address for submission of tenders;

The Secretary, Board of Management,  
Lugari Diploma Teachers Training College  
P.O BOX 229-50241, Kipkarren River.

## SECTION II – INSTRUCTIONS TO TENDERERS

<b>TABLE OF CONTENTS.</b>	<b>Page</b>
Eligible Tenderers .....	6
Cost of tendering.....	6
Contents of tender documents.....	7
Clarification of Tender documents .....	7
Amendment of tender documents .....	8
Language of tenders .....	8
Documents comprising the tender.....	8
Form of tender.....	9
Tender prices.....	9
Tender currencies.....	9
Tenderers eligibility and qualifications .....	9
Validity of tenders .....	11
Format and signing of tenders .....	11
Sealing and marking of tenders .....	12
Deadline for submission of tenders.....	12
Modification and withdrawal of tenders .....	12
Opening of tenders .....	13
Clarification of tenders .....	14
Preliminary Examination. ....	14
Conversion to other currencies .....	15
Evaluation and comparison of tenders .....	15
Contacting the LDTTC .....	16
Post-qualification .....	17
Award criteria .....	17
Procuring entities right to vary quantities .....	17
Procuring entities right to accept or reject any or all tenders.....	17
Notification of award .....	18
Signing of Contract.....	18
Corrupt or fraudulent practices .....	19

## **SECTION II INSTRUCTIONS TO TENDERERS**

### **Eligible tenderers**

This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the goods and related services for the stipulated duration from the date of commencement specified in the tender documents.

The LDTTC's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.

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 LDTTC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.

Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### **Cost of tendering**

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

### **Contents of tender documents**

The tender document comprises of the documents listed below and addendum issued in accordance with clause 6 of these instructions to tenders

- i) Instructions to tenderers ii) General Conditions of Contract iii) Special Conditions of Contract iv) Schedule of Requirements v)

Details of service vi) Form of tender vii) Price schedules viii)

Contract form

ix) Confidential business questionnaire form x) Tender security form

xi)

Performance security form

- xii) Principal's or manufacturers authorization form xiii)

Declaration form

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.

### **Clarification of Documents**

A prospective candidate making inquiries of the tender document may notify the LDTTC in writing or , email at the entity's address indicated in the Invitation for tenders.

The LDTTC 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 LDTTC. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents”

The LDTTC 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.

### **Amendment of documents**

At any time prior to the deadline for submission of tenders, the LDTTC, 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 issuing an addendum.

All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, or email and such amendment will be binding on them.

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

### **Language of tender**

The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the LDTTC, shall be written in English language. 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.

### **Documents Comprising the Tender**

The tender prepared by the tenderer shall comprise the following components:

1. A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
2. Documentary evidence established in accordance with Clause  
a. 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted
3. Confidential business questionnaire

## **Form of Tender**

2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the goods and related services to be performed.

## **Tender Prices**

The tenderer shall indicate on the Price schedule the unit prices where applicable and total tenderprices of the goods/ services it proposes to provide under the contract.

Prices indicated on the Price Schedule shall be the cost of the goods/services quoted including all customs duties and VAT and other taxes payable:

Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

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

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

Price variation requests shall be processed by the LDTTC within 30 days of receiving the request.

## **Tender Currencies**

Prices shall be quoted in **Kenya Shillings** unless otherwise specified in the appendix to Instructions to Tenderers

## **Tenderers Eligibility and Qualifications.**

Pursuant to Clause 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.

The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall established to the LDTTC satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

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

The tender security shall be in the amount not exceeding 2 per cent of the tender price.

The tender security is required to protect the LDTTC against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7.

The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:

- a) A bank guarantee.
- b) Cash.

c) Such insurance guarantee approved by the Authority.

d) Letter of credit

Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the LDTTC as non-responsive, pursuant to paragraph 2.20

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

The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.

The tender security may be forfeited:

- (a) If a tenderer **withdraws** its tender **during** the period of tender validity specified by the LDTTC 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 30 **or**
  - (ii) to furnish performance security in accordance with paragraph 31.
- (c) If the tenderer rejects, correction of an error in the tender.

### **Validity of Tenders**

Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the LDTTC, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the LDTTC as nonresponsive.

In exceptional circumstances, the LDTTC may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses there to shall be made in writing. The tender security provided under paragraph 2.12 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.

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

Tenders must be received by the LDTTC  
Not later than 06/06/2024 at 10.00 am

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The LDTTC may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of the LDTTC and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.



## **Modification and withdrawal of tenders**

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 tender's is received by the LDTTC prior to the deadline prescribed for the submission of tenders.

The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

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 TenderForm. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2

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

The LDTTC 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.

### **Opening of Tenders**

2.18. The LDTTC will open all tenders on **06/06/2024 at 10.00am**

### **Clarification of tenders**

To assist in the examination, evaluation and comparison of tenders the LDTTC 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 shall be sought, offered, or permitted.

Any effort by the tenderer to influence the LDTTC tender evaluation committee, or contract award decisions may result in the rejection of the tenderer's tender.

### **Preliminary Examination and Responsiveness**

The LDTTC will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.

The LDTTC may waive any minor informality or nonconformity 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.

Prior to the detailed evaluation, pursuant to paragraph 23, the LDTTC 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 LDTTC's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

If a tender is not substantially responsive, it will be rejected by the LDTTC and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

### **Conversion to a single currency**

2.21.1 Where other currencies are used, the LDTTC will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

### **Evaluation and comparison of tenders.**

The LDTTC will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.

The LDTTC's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph and in the technical specifications:

- (a) operational plan proposed in the tender;
  - (b) deviations in payment schedule from that specified in the Special Conditions of Contract;
- Pursuant to paragraph 22.3 the following evaluation methods will be applied:

(a) ***Operational Plan.***

The LDTTC requires that the goods/ services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than the LDTTC's required delivery time will be treated as non-responsive and rejected.

(b) ***Deviation in payment schedule.***

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The LDTTC may consider the alternative payment schedule offered by the selected tenderer.

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

To qualify for contract awards, the tenderer shall have the following: -

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing
- (d) Shall not be debarred from participating in public procurement.

## **Contacting the LDTTC**

Subject to paragraph 2.19, no tenderer shall contact the LDTTC on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

Any effort by a tenderer to influence the LDTTC in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

### **a) Award Criteria**

Subject to paragraph 2.29 the LDTTC will award the contract to the successful tenderer 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.

The LDTTC 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 LDTTC's action. If the LDTTC determines that none of the tenderers is responsive; the LDTTC shall notify each tenderer who submitted a tender.

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.

## **Notification of award**

Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.

The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the LDTTC pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the LDTTC will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

## **Signing of Contract**

At the same time as the LDTTC notifies the successful tenderer that its tender has been accepted, the LDTTC will simultaneously inform the other tenderers that their tenders have not been successful.

Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the LDTTC.

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.

## **Award of Contract**

### **b) Post qualification**

In the absence of pre-qualification, the LDTTC 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.

The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the LDTTC deems necessary and appropriate.

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 LDTTC will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

2.24.4. LDTTC shall enter in to negotiation with the successful bidder on the prices of the spares (catalogue) provided subject to market price comparison.

## **Corrupt or Fraudulent Practices**

The LDTTC requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

The LDTTC 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;

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 THE TENDERERS**

**Notes on the appendix to instruction to Tenderers**

1. The appendix to instructions to tenderers is intended to assist the LDTTC in providing specific information in relation to corresponding clauses in the instructions to tenderers included in section II and the appendix has to be prepared for each specific procurement
2. The LDTTC should specify in the appendix information and requirements specific to the circumstances of the LDTTC, the processing of the procurement and the tender evaluation criteria that will apply to the tenderers
3. In preparing the appendix the following aspects should be taken into consideration
  - a. The information that specifies and complements provisions of section III to be incorporated
  - b. Amendments of section II as necessitated by the circumstances of the specific procurement to be also incorporated.
4. Section II should remain intact and only be amended through the appendix.

**Appendix to instructions to tenderers**

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions 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

<b>Instructions to tenderers</b>	<b>Particulars of appendix to instructions to tenderers</b>
2.1	All tenderers eligible as per instructions to tenderers. The Successful tenderer shall provide the goods/services for the period as shall be specified in the contract
2.10	Prices shall be quoted in Kenya Shillings.

2.11	<p>For the purposes of establishing its eligibility, the tenderer shall furnish:</p> <p>i) Certificate of incorporation, ii) Certificate of tax compliance, iii) PIN and VAT Registration Certificate, iv) Company Profile on the provided business questionnaire; Valid Single Business Permit 2022 Certificate of dealership or Authorization from the manufacturer's viii) Provide Warranty in terms of Duration, Coverage, disclaimer and limitations for spare parts supplied and services rendered.</p>
2.12	Particulars of post – qualification are applicable
Other's as necessary	<p>Right to award Contract:- The LD TTC reserves the right toward the contract in whole or in part without any change in the Unit price or other terms and conditions.</p>

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

### **CONTENTS**

Definitions Application Standards

Use of contract documents and information Patent Rights

Performance security Inspections and tests Payment

Prices Assignment

Termination for default Termination for insolvency Termination for convenience Resolution of disputes Governing language

Force majeure Applicable law Notices



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

### **Definitions**

In this contract the following terms shall be interpreted as indicated:

- a) “The contract” means the agreement entered into between the LDTTC 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 services” means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the LDTTC under the Contract.
- d) “The LDTTC” means the organization sourcing for the services under this Contract.
- e) “The contractor” means the individual or firm providing the services under this Contract.
- f) “GCC” means general conditions of contract contained in this section
- g) “SCC” means the special conditions of contract
- h) “Day” means calendar day

### **Application**

These General Conditions shall apply to the extent that they are not superseded by provisions of other part of contract.

### **Standards**

The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

### **Patent Right’s**

The tenderer shall indemnify the LDTTC against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### **Inspections and Tests**

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

The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). 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 LDTTC.

Should any inspected or tested services fail to conform to the Specifications, the LDTTC may reject the goods/services, and the tenderer shall either replace the rejected services /goods or make alterations necessary to meet specification requirements free of cost to the LDTTC.

Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **Payment**

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

### **Prices**

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the LDTTC's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

### **Assignment**

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

### **3.10 Termination for Default**

The LDTTC 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 provide any or all of the goods/services within the period(s) specified in the Contract, or within any extension thereof granted by the LDTTC.
- b) If the tenderer fails to perform any other obligation(s) under the Contract.
- c) If the tenderer, in the judgment of the LDTTC has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

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

#### **Termination of insolvency**

The LDTTC may at any time terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the LDTTC.

#### **Termination for convenience**

The LDTTC by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the LDTTC convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

For the remaining part of the contract after termination the LDTTC may elect to cancel the services and pay to the contractor an agreed amount for partially completed services.

#### **Resolution of disputes**

The LDTTC's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

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 that the dispute be referred for resolution to the formal mechanisms specified in the SCC. **Governing Language**

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

**Force Majeure**

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

**Applicable Law.**

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC

**Notices**

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC

A notice shall be effective when delivered or on the notices effective date, whichever is later.

## **SECTION V – EVALUATION CRITERIA**

### **STAGE I: PRELIMINARY (MANDATORY REQUIREMENTS - MR)**

**NOTE: Bids that do not meet the above mandatory requirements will be declared NON-RESPONSIVE and SHALL NOT be evaluated further.**

#### **A) PRELIMINARY EVALUATION**

This stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Tender Advertisement Notice or Letter of Invitation to Tender and any other conditions stated in the bid document.

These conditions will include the following:

1. Registration certificate
2. Tax Compliance Certificate
3. AGPO certificate if applicable
4. Dully filled and signed form of tender
5. Dully filled Form of independent tender determination
6. Dully filled self-declaration form-SD1
7. Dully Filled tender Questionnaires
8. Dully Filled Corrupt and fraudulent form-SD2
9. Dully Filled declaration and commitment to code of ethics form
10. Dully Filled declaration and commitment to code of ethics form
11. Dully Filled confidential business questionnaire form
12. Dully Filled beneficial ownership disclosure form
13. Fill in the price schedule form appropriately.

**Key:**                     **Responsive (R),**                     **Non Responsive (NR)**

**(B) TECHNICAL EVALUATION**  
**PARAMETER**

**MAXIMUM POINTS**

S/NO			MARKS
1	Bank Statements For The Last Three Months	-Ksh.1M and above-30mks -500,000 and above(25mks) -below 500,000-20mks	30mks
2	Number of years in similar supplies	3yrs and above-25 2yrs and above-20mks 1 year-15mks New firm-10mks Attach LPO/AWARD LETTER/CONTRACT	25MKS
3	Magnitude of similar supplies done in the year,2019,2020,2021	1M and above-25 500,000 and above-20 500,000 and below -18	25mks
4	Litigation history	Attached-20 Not attached-0	20mks
	<b>TOTAL</b>		<b>100%</b>

**NOTE:**

**ONLY Bidders who score 70% proceed to financial evaluation**

**STAGE 3-FINANCIAL EVALUATION**

**Under Financial Evaluation.**

**The Lowest Responsive Bidder with the lowest quoted Tender Sum may be recommended for award**

## FORM NO.1FORM OF TENDER-

### INSTRUCTIONS TO TENDERERS

- i) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*
- ii) *All italicized text is to help Tenderer in preparing this form.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.*

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

To: ..... [Insert complete name of Procuring Entity]

- a) **No reservations:** We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with Instructions to tenderers (ITT 7);
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3;
- c) **Tender/Proposal-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing Declaration.  
or  
Proposal-Securing Declaration in Kenya in accordance with ITT 3.6;
- d) **Conformity:** We offer to supply in conformity with the Tendering document and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: [insert a brief description of the Goods and Related Services];
- e) **Tender Price:** The total price of our Tender, excluding any discounts offered in item a(f) below is:  
  
Option 1, in case of one lot: Total price is: [insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];  
  
Or  
  
Option 2, in case of multiple lots: (a) Total price of each lot [insert the total price aof each lot in words and figures, indicating the various amounts and the respective currencies]; and (b) Total price of all lots (sum of all lots) [insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];
- f) **Discounts:** The discounts offered and the methodology for their application area
  - i) The discounts offered are: [Specify in detail each discount offered.]
  - ii) The exact method of calculations to determine the net price after application of discounts are shown below: [Specify in detail the method that shall be used to apply the discounts];

- g) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 17.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 21.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (h) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tendering document-if applicable
- i) **One Tender per tenderer:** We are not submitting any other Tender(s) as an individual tenderer, and we are not participating in any other Tender(s) as a Joint Venture member, or as a subcontractor, and meet the requirements of ITT 3.9, other than alternative Tenders submitted in accordance with ITT 12;
- j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Procuring Entity. Further, we are not ineligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;
- k) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state- owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.7];*
- l) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

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

- m) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- n) **Procuring Entity Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and
- o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- (p) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from \_\_\_\_\_(specify website) during the procurement process and the execution of any resulting contract.
- (q) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent tender Determination” attached below.



- (f) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
  - b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
  - c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
  - d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1- Fraud and Corruption**” attached to the Form of Tender.

**Name of the tenderer:** \*[insert complete name of the tenderer]

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

**Title of the person signing the Tender:** [insert complete title of the person signing the Tender]

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

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

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



directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name

---

Title

---

Date

---

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

**FORM NO-3 SELF-DECLARATION FORMS**

**FORM SD1**

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

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

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ..... (*insert name of the Company*) who is a Bidder in respect of **Tender** **No.** ..... for..... (*insert tender title/description*) for.....(*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder Official Stamp

**FORM SD2**

**FORM NO 4-SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE**

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

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of..... *(insert name of the Company)* who is a Bidder in respect of **Tender No.** ..... for..... *(Insert tender title/description)* for..... *(insert name of the Procuring entity)* and duly authorized and competent to make this statement.
  
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of .....*(insert name of the Procuring entity)* which is the procuring entity.
  
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of .....*(name of the procuring entity)*.
  
4. THAT the aforesaid Bidder will not engage/has not engaged in any corrosive practice with other bidders participating in the subject tender.
  
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....

.....  
.....  
(Signature)  
(Date)

(Title)

Bidder's Official Stamp

**FORM NO 5-DECLARATION AND COMMITMENT TO THE CODE OF ETHICS**

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

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

Name of Authorized signatory.....

Sign.....  
...

Position.....  
.....

Office address.....

Telephone.....

E-mail.....  
...

Name of the Firm/Company.....

Date.....  
.....

**(Company Seal/ Rubber Stamp where applicable)**

Witness

Name.....

Sign.....  
...

Date.....  
.....

## APPENDIX 1- FRAUD AND CORRUPTION

*(Appendix 1 shall not be modified)*

### 1. Purpose

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

### 2. Requirements

- 2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.
- 2.2 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:
- 1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
  - 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
  - 3) Without limiting the generality of the subsection (1) and (2), the person shall be—
    - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
    - b) if a contract has already been entered into with the person, the contract shall be voidable;
  - 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
  - 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement:-
    - a) shall not take part in the procurement proceedings;
    - b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
    - c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
  - 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
  - 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

- 23 In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
    - i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
    - ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
    - iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
    - iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
    - v) "obstructive practice" is:
      - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
      - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
  - b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
  - c) Rejects a proposal for award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
  - d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
  - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
  - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with



their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

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

**FORM NO 6-TENDERER INFORMATION FORM**

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

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

**Tender Name and Identification:**..... *[Insert identification]*

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

Page \_\_\_\_\_ of \_\_\_\_\_ page

1. Tenderer’s Name <i>[insert Tenderer’s legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Tenderer’s actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Tenderer’s year of registration: <i>[insert Tenderer’s year of registration]</i>
5. Tenderer’s Address in country of registration: <i>[insert Tenderer’s legal address in country of registration]</i>
6. Tenderer’s Authorized Representative Information Name: <i>[insert Authorized Representative’s name]</i> Address: <i>[insert Authorized Representative’s Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative’s telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative’s email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> For Kenyan Tenderers a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14. <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.4. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.6 documents establishing: (i) Legal and financial autonomy (ii) Operation under commercial law (iii) Establishing that the tenderer is not under the supervision of the Procuring Entity
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

**FORM NO-7 TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM**

a) Instruction to Tenderer

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

**A. Tenderer's details**

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

**General and Specific Details**

b) **Sole Proprietor, provide the following details.**

Name in full \_\_\_\_\_

\_\_\_\_\_

Age \_\_\_\_\_ Nationality\_

\_\_\_\_\_

Country of Origin \_\_\_\_\_ Citizenship \_\_\_\_\_

\_\_\_\_\_



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

(f) Certification

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

Full Name \_\_\_\_\_

Title or Designation \_\_\_\_\_

(Signature)

(Date)

**FORM NO-8 TENDERER’S JV MEMBERS INFORMATION FORM**

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

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

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

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1.	<i>[insert Tenderer’s legal name]</i>	Tenderer’s Name:
2.	Tenderer’s JV Member’s name: <i>[insert JV’s Member legal name]</i>	
3.	Tenderer’s JV Member’s country of registration: <i>[insert JV’s Member country of registration]</i>	
4.	Tenderer’s JV Member’s year of registration: <i>[insert JV’s Member year of registration]</i>	
5.	Tenderer’s JV Member’s legal address in country of registration: <i>[insert JV’s Member legal address in country of registration]</i>	
6.	Tenderer’s JV Member’s authorized representative information Name: <i>[insert name of JV’s Member authorized representative]</i> Address: <i>[insert address of JV’s Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV’s Member authorized representative]</i> Email Address: <i>[insert email address of JV’s Member authorized representative]</i>	
7.	Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 4.4. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 4.6.	
8.	Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.	

### Price schedule

ITEM NO.	DESCRIPTION OF GOODS	MEASURE	QUANTITY	UNIT PRICE	AMOUNT
1	Supply of tomatoes	kgs	1700		
2	Supply of onions	kgs	1700		
	Total				

## FORM No. 9 NOTIFICATION OF INTENTION TO AWARD

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

-----  
-----

### **FORMAT**

1. For the attention of Tenderer's Authorized Representative

- I) Name: \_\_\_\_\_ *[insert Authorized Representative's name]*
- ii) Address: \_\_\_\_\_ *[insert Authorized Representative's Address]*
- iii) Telephone: \_\_\_\_\_ *[insert Authorized Representative's telephone/fax numbers]*
- iv) Email Address: \_\_\_\_\_ *[insert Authorized Representative's email address]*

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

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

This Notification is sent by \_\_\_\_\_ *(Name and designation)* \_\_\_\_\_  
\_\_\_\_\_

3. Notification of Intention to Award

- I) Employer: \_\_\_\_\_ *[insert the name of the Employer]*
- ii) Project: \_\_\_\_\_ *[insert name of project]*
- iii) Contract title: \_\_\_\_\_ *[insert the name of the contract]*
- iv) Country: \_\_\_\_\_ *[insert country where ITT is issued]*
- v) ITT No: \_\_\_\_\_ *[insert ITT reference number from Procurement Plan]*

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

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

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

- a) The successful tenderer
- i) Name of successful Tender \_\_\_\_\_



- \_\_\_\_\_
- ii) Address of the successful Tender \_\_\_\_\_
- \_\_\_\_\_
- iii) Contract price of the successful Tender Kenya Shillings\_ \_\_\_\_\_(in words \_\_\_\_\_)
- b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

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

*(Note a) State NE if not evaluated*

5. How to request a debriefing
- a) DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (*local time*).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
- i) Attention:\_\_\_\_\_ [*insert full name of person, if applicable*]
- ii) Title/position:\_\_\_\_\_ [*insert title/position*]
- ii) Agency:\_\_\_\_\_ [*insert name of Employer*]
- iii) Email address:\_\_\_ [*insert email address*]
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6 How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (local time).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
  - I) Attention: \_\_\_\_\_ [*insert full name of person, if applicable*]
  - ii) Title/position: \_\_\_\_\_ [*insert title/position*]
  - iii) Agency: \_\_\_\_\_ [*insert name of Employer*]
  - iv) Email address: \_\_\_\_\_ [*insert email address*]
- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website [www.ppra.go.ke](http://www.ppra.go.ke) or email [complaints@ppra.go.ke](mailto:complaints@ppra.go.ke).

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

- e) There are four essential requirements:
  - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
  - ii) The complaint can only challenge the decision to award the contract.
  - iii) You must submit the complaint within the period stated above.
  - iv) You must include, in your complaint, all of the information required to support your complaint.

**7. Standstill Period**

- i) DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

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

On behalf of the Employer:

Signature: \_\_\_\_\_ Name: \_\_\_\_\_ Title/position: \_\_\_\_\_ Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**FORM NO. 10 LETTER OF AWARD**

*[Use letter head paper of the Procuring Entity]*

\_\_\_\_\_ *[Date]*

To: \_\_\_\_\_ *[name and address of the Supplier]*

Subject: \_\_\_\_\_ *Notification of Award Contract No. . . . . .*

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

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

Authorized \_\_\_\_\_ Signature: \_\_\_\_\_

Name \_\_\_\_\_ and \_\_\_\_\_ Title \_\_\_\_\_ of \_\_\_\_\_ Signatory: \_\_\_\_\_

Name \_\_\_\_\_ of \_\_\_\_\_ Agency: \_\_\_\_\_

**Attachment: Contract Agreement**

## FORM NO. 11- CONTRACT AGREEMENT

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

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

1. WHEREAS the Procuring Entity invited Tenders for certain Goods and ancillary services, viz., \_\_\_\_\_ *[insert brief description of Goods and Services]* and has accepted a Tender by the Supplier for the supply of those Goods and Services, the Procuring Entity and the Supplier agree as follows:
  - i) In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
  - ii) The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
    - a) the Letter of Acceptance
    - b) the Letter of Tender
    - c) the Addenda Nos. (if any)
    - d) Special Conditions of Contract
    - e) General Conditions of Contract
    - f) the Specification (including Schedule of Requirements and Technical Specifications)
    - g) the completed Schedules (including Price Schedules)
    - h) any other document listed in GCC as forming part of the Contract
  - iii) In consideration of the payments to be made by the Procuring Entity to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
2. The Procuring Entity hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services 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.
3. IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Kenya on the day, month and year indicated above.

### **For and on behalf of the Procuring Entity**

Signed: \_\_\_\_\_ *[insert signature]*

in the capacity of \_\_\_\_\_ *[insert title or other appropriate designation]* In the presence

of \_\_\_\_\_ *[insert identification of official witness]* **For and on behalf**

**of the Supplier**

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

**FORM NO. 12 BENEFICIAL OWNERSHIP DISCLOSURE FORM**

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

*This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:*

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or in directly holding 25% or more of the voting rights.*
- *Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.*

Tender Reference No.: \_\_\_\_\_ [*insert identification no*]

Name of the Assignment: \_\_\_\_\_ [*insert name of the assignment*] to:  
 \_\_\_\_\_ [*insert complete name of Procuring Entity*]

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

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

***Details of beneficial ownership***

<b>Identity of Beneficial Owner</b>	<b>Directly or indirectly holding 25% or more of the shares (Yes / No)</b>	<b>Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)</b>	<b>Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer (Yes / No)</b>
<i>[include full name (last, middle, first), nationality, country of residence]</i>			

OR

ii) *We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.*

OR

*We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]*

*Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.*

*Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer]”*

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

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

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

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

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



