



GEOHERMAL DEVELOPMENT COMPANY LTD (GDC)

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NAIROBI, KENYA

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**TENDER FOR HIRE OF MOTOR VEHICLES FOR TRANSPORT
SERVICES (ON NEED BASIS) THROUGH FRAMEWORK
CONTRACT FOR A PERIOD OF TWO (2) YEARS.**

TENDER NO: GDC/FLTM/OT/033/2021:2022

**TENDER CLOSING DATE AND TIME: 14TH FEBRUARY, 2022
AT 2.00PM**

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PROCURING ENTITY - GEOTHERMAL DEVELOPMENT COMPANY LTD

CONTRACT NAME AND DESCRIPTION: TENDER FOR HIRE OF MOTOR VEHICLES FOR TRANSPORT SERVICES (ON NEED BASIS) THROUGH FRAMEWORK CONTRACT FOR A PERIOD OF TWO (2) YEARS.

The Geothermal Development Company invites sealed tenders for **Hire of Motor Vehicles for Transport Services (on need basis) for a Period of Two (2) Years through framework contract.**

Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.

Qualified and interested tenderers may obtain further information and inspect the Tender Documents from the office of Manager, Supply Chain at Kawi House Office, located at South C Bellevue, Off Mombasa Road, Red Cross Road between 9.00am and 4.00pm during weekdays.

A complete set of tender documents may be purchased or obtained by interested tenders upon payment of a non-refundable fees of Kshs 1000.00 in cash or Banker's Cheque and payable to GDC Accounts Office. Tender documents may be obtained electronically from the Website www.gdc.co.ke or www.tenders.go.ke. Tender documents obtained electronically will be free of charge.

Tender documents may be viewed and downloaded for free from the website www.gdc.co.ke or tenders.go.ke. Tenderers who download the tender document must forward their particulars immediately to procurement@gdc.co.ke to facilitate any further clarification or addendum.

All Tenders must be accompanied by an original tender security in the amount of **Kshs. 200,000.00 in the format specified in the tender document.**

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

Completed tenders are to be enclosed in plain sealed envelopes marked with tender name and tender reference number and be deposited in the Tender Box at GDC Kawi House Office Ground Floor, located at South C Bellevue, Off Mombasa Road, Red Cross Road, or be addressed to;

**THE MANAGING DIRECTOR,
GEOTHERMAL DEVELOPMENT COMPANY LTD
P.O. BOX 100746 – 00101
NAIROBI, KENYA**

So as to be received on or before **14th February, 2022 at 02:00pm.**

Electronic Tenders will not be permitted.

Tenders will be opened immediately after the deadline date and time specified above. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at GDC Kawi House Office Ground Floor.

Late tenders will be rejected.

MANAGER, SUPPLY CHAIN

PART 1 - TENDERING PROCEDURES

SECTION I - INSTRUCTIONS TO TENDERERS

1. General

1. Scope of Tender

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

2. Definitions

1. Throughout this tendering document:

1. the term "in writing" means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the **TDS**, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;
2. if the context so requires, "singular" means "plural" and vice versa; and
3. "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Procuring Entity. It excludes the Procuring Entity's official public holidays.

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

3. Fraud and Corruption

1. The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.
2. The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.
3. Unfair Competitive Advantage-Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the TDS and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.
4. Unfair Competitive Advantage – Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the contract being tendered for. The Procuring Entity shall indicate in the TDS firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.
5. Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, prequalification

process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

6. Eligible Tenderers

1. A Tenderer may be a firm that is a private entity, a state-owned entity or institution subject to ITT 4.6, or any combination of such entities in the form of an association or subcontracting arrangement or a Joint Venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.
2. Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
3. A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
 1. Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
 2. Receives or has received any direct or indirect subsidy from another Tenderer; or
 3. Has the same legal representative as another Tenderer; or
 4. 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; or
 5. Or any of its affiliates participated as a consultant in the preparation of the Procuring Entity's Requirements (including Activities Schedules, Performance Specifications and Drawings) for the Maintenance services that are the subject of the Tender; or
 6. Or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity for the Contract implementation; or
 7. Would be providing goods, works, or maintenance services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
 8. Has a close business or family relationship with a professional staff of the Procuring Entity or of the project implementing agency, who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the contract, and/or the Tender evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the procurement process and execution of the Contract.
4. A firm that is a Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative Tenders. This includes participation as a subcontractor. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a Tenderer or a JV member, may participate as a sub-contractor in more than one Tender.
5. A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination

of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

6. A Tenderer that has been sanctioned by PPRA or are under a temporary suspension or a debarment imposed by any other entity of the Government of Kenya, shall be ineligible to be prequalified for, initially selected for, tender for, propose for, or be awarded a contract during such period of sanctioning. The list of debarred firms and individuals is available at the electronic address info@ppra.go.ke.
7. Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish that they: (i) are legally and financially autonomous; (ii) operate under commercial law; and (iii) are not under supervision of the Procuring Entity.
8. A Tenderer under suspension from tendering as the result of the operation of a Tender-Securing Declaration or Proposal-Securing Declaration shall not be eligible to tender.
9. Firms and individuals may be ineligible if (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.
10. Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in "SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9".
11. Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.
12. The Procuring Entity may require tenderers to be registered with certain authorities in Kenya. Such registration shall be defined in the TDS, but care must be taken to ensure such registration requirement does not discourage competition, nor exclude competent tenderers. Registration shall not be a condition for tender, but where a selected tenderer is not so registered, the tenderer shall be given opportunity to register before signature of contract.
13. The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
14. A Tenderer may be considered ineligible if he/she offers goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.
15. Qualification of the Tenderer
 1. All Tenderers shall provide in Section IV, Tendering Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.

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

B. Contents of Tendering Document

3. Sections of Tendering Document

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

PART 1: Tendering Procedures

1. Section I-Instructions to Tenderers (ITT)
2. Section II-Tender Data Sheet (TDS)
3. Section III-Evaluation and Qualification Criteria

4. Section IV – Tendering Forms

PART 2: Procuring Entity's Requirements

5. Section V- Procuring Entity's Requirements

PART 3: Contract

6. Section VI- General Conditions of Contract (GCC)

7. Section VII- Special Conditions of Contract (SCC)

8. Section VIII- Contract Forms

1. The Invitation to Tender (ITT) or the notice to prequalify Tenderers, as the case may be, issued by the Procuring Entity is not part of this tendering document.
2. Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 9. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.
3. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

4. Site Visit

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

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

1. The Procuring Entity shall specify in the TDS if a pre-tender conference will be held, when and where. The Procuring Entity shall also specify in the TDS if a pre-arranged pretender visit of the site of the works will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
2. The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the TDS before the meeting.
3. Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.
4. The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the TDS. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT

10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

5. Clarification of Tender Documents

1. A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the TDS or raise its enquiries during the pre-Tender meeting and the pre-arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the TDS prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 10.

2. Amendment of Tendering Document

1. At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.
2. Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's webpage in accordance with ITT 8.1.
3. To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 24.2 below.

C. Preparation of Tenders

4. Cost of Tendering

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

2. Language of Tender

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

2. Documents Comprising the Tender

1. The Tender shall comprise the following:

1. **Form of Tender** prepared in accordance with ITT 14;
2. **Schedules:** Schedules or Requirements and priced Activity Schedule completed in accordance with ITT 14 and ITT 16;
3. **Tender Security or Tender-Securing Declaration** in accordance with ITT 21.1;
4. **Alternative Tender:** if permissible in accordance with ITT 15;

5. **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
 6. **Qualifications:** documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
 7. **Tenderer's Eligibility:** documentary evidence in accordance with ITT 19 establishing the Tenderer's eligibility to Tender;
 8. **Conformity:** documentary evidence in accordance with ITT 18, that the Services conform to the tendering document; and
 9. Any other document required in the TDS.
2. In addition to the requirements under ITT 12.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted. The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.
 3. Form of Tender and Activity Schedule
 1. The Form of Tender and priced Activity Schedule shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 21.3. All blank spaces shall be filled in with the information requested.
 2. Alternative Tenders
 1. Unless otherwise indicated in the TDS, alternative Tenders shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the Most Advantageous Tenderer shall be considered by the Procuring Entity.
 2. When alternative times for completion are explicitly invited, a statement to that effect will be included in the TDS and the method of evaluating different time schedules will be described in Section III, Evaluation and Qualification Criteria.
 3. When specified in the TDS, Tenderers are permitted to submit alternative technical solutions for specified parts of the Services, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VII, Procuring Entity's Requirements.
 1. Tender Prices and Discounts
 1. The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Activity Schedule(s) shall conform to the requirements specified below.
 2. All lots (contracts) and items must be listed and priced separately in the Activity Schedule(s).
 3. The Contract shall be for the Services, as described in Appendix A to the Contract and in the Specifications (or Terms of Reference), based on the priced Activity Schedule, submitted by the Tenderer.
 4. The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender in accordance with ITT 13.1.
 5. The Tenderer shall fill in rates and prices for all items of the Services described in the in Specifications (or Terms of Reference), and listed in the Activity Schedule in Section VII, Procuring Entity's Requirements. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.

6. All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the total Tender price submitted by the Tenderer.
7. If provided for in the TDS, the rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Special Conditions of Contract and of the General Conditions of Contract.
8. For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Tenderer in the form of Appendices D and E to the Contract.

1. Currencies of Tender and Payment

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

1. Documents Establishing Conformity of Services

1. To establish the conformity of the Maintenance services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that Services provided conform to the technical specifications and standards specified in Section VII, Procuring Entity's Requirements.
2. Standards for provision of the Maintenance services are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Procuring Entity's Requirements.

1. Documents Establishing the Eligibility and Qualifications of the Tenderer

1. Tenderers shall complete the Form of Tender and all the Tendering Forms included in Section IV to establish their eligibility in accordance with ITT 4.
2. The documentary evidence of the Tenderer's qualifications to perform the Contract if its Tender is accepted shall establish to the Procuring Entity's satisfaction that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.
3. In the event that prequalification of Tenderers has been undertaken as stated in the TDS, only Tenders from prequalified Tenderers shall be considered for award of Contract. The prequalified Tenderers should submit with their Tenders any information updating their original prequalification applications or, alternatively, confirm in their Tenders that the originally submitted prequalification information remains essentially correct as of the date of Tender submission.
4. Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a Service provider or group of service providers qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and there by help to prevent any corrupt influence in relation to the procurement process or contract management.
5. The purpose of the information described in ITT 18.1 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.
6. The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
7. All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer

shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

8. If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
9. If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:
 1. If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
 2. If the contract has been awarded to that tenderer, the contract award will be set aside,
3. The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other person have committed any criminal offence.
 1. If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.
 2. A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

3. Period of Validity of Tenders

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

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

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

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

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

1. cash;
2. a bank guarantee;

3. a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
4. a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,
 1. If a Tender Security is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.
 2. If a Tender Security is specified pursuant to ITT 20.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the contract and furnishing the Performance Security pursuant to ITT 46.
 3. The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security. The Procurement Entity shall also return tender security to the tenderers where;

- a). The procurement proceeding are terminated
- b). All tenders were determined non-responsive and
- c). Where a bidder decline to extent the tender validity period.

4. The Tender Security may be forfeited or the Tender-Securing Declaration executed:
 1.if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereto provided by the Tenderer; or

2.if the successful Tenderer fails to:

1. sign the Contract in accordance with ITT 45; or

2.furnish a performance security in accordance with ITT 46.

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

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

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

2. if the successful Tenderer fails to:

1. sign the Contract in accordance with ITT 45;or

2.furnish a performance security in accordance with ITT 46;

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

22. Format and Signing of Tender

1. The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 12, bound with the volume containing the Form of Tender, and clearly marked "Original." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS, and clearly marked as "Copies." In the event of discrepancy between them, the original shall prevail.
2. Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

3. The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
4. In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
5. Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

1. Sealing and Marking of Tenders

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

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

1. in an envelope or package or container marked "ORIGINAL –ALTERNATIVE TENDER", the alternative Tender; and
2. in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

1. The inner envelopes or packages or containers shall:

1. bear the name and address of the Procuring Entity.
2. bear the name and address of the Tenderer; and
3. bear the name and Reference number of the Tender.

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

4. Deadline for Submission of Tenders

1. Tenders must be received by the Procuring Entity at the address and no later than the date and time specified in the TDS. When so specified in the TDS, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the TDS.
2. The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

3. Late Tenders

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

4. Withdrawal, Substitution and Modification of Tenders

1. A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
 2. prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" and
 3. received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.
 4. Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.
 5. No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

5. Tender Opening

1. Except as in the cases specified in ITT 23 and ITT 25.2, the Procuring Entity shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives and anyone who choose to attend. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 23.1, shall be as specified **in the TDS**.
2. First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.
3. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
4. Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
5. Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the

presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.

6. Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further. The Form of Tender and the priced Activity Schedule are to be initialed by representatives of the Procuring Entity attending Tender opening in the manner specified in the TDS.
7. The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 24.1).
8. The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:
 1. The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 2. The Tender Price, per lot (contract) if applicable, including any discounts; and
 3. Any alternative Tenders;
 4. The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.
9. The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record. A copy of the opening registers shall be distributed to all Tenderers upon request.

E. Evaluation and Comparison of Tenders

6. Confidentiality

28.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until information on the Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 41.

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

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

7. Clarification of Tenders

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

8. Deviations, Reservations, and Omissions

1. During the evaluation of Tenders, the following definitions apply:
 1. "Deviation" is a departure from the requirements specified in the tendering document;

2. "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and
3. "Omission" is the failure to submit part or all of the information or documentation required in the tendering document.

1. Determination of Responsiveness

1. The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 12.
2. A substantially responsive Tender is one that meets the requirements of the tendering document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
 1. If accepted, would:
 1. Affect in any substantial way the scope, quality, or performance of the Maintenance services specified in the Contract; or
 2. Limit in any substantial way, inconsistent with the tendering document, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
 2. if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.
3. The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 17 and ITT18, in particular, to confirm that all requirements of Section VII, Procuring Entity's Requirements have been met without any material deviation or reservation, or omission.
4. If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. Non-conformities, Errors and Omissions
5. Provided that a Tender is substantially responsive, the Procuring Entity may waive any non-conformities in the Tender.
6. Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non- conformities or omissions in the Tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.
7. Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable non material non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the TDS.

2. Arithmetical Errors

1. Corrected tender prices shall not be used in the evaluation of tenders, comparison of tender prices.
2. The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in anyway by any person or entity.

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

1. Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
2. Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
3. If there is a discrepancy between words and figures, the amount in words shall prevail,

3. Conversion to Single Currency

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

4. Margin of Preference

1. Margin of preference on local service providers may be allowed if it is deemed that the services require participation of foreign tenderers. If so allowed, it will be indicated in the **TDS**.
2. Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to the specified group are eligible to tender as specified in the **TDS**. Otherwise if not so stated, the invitation will be open to all tenderers.

5. Evaluation of Tenders

1. The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the Most Advantageous Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:
 1. Substantially responsive to the tendering document; and
 2. The lowest evaluated cost.
1. In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender cost by adjusting the Tender price as follows:
 1. Price adjustment due to discounts offered in accordance with ITT 15.4;
 2. converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33;
 3. price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 31.3;
 4. The additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.
1. The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.
2. In the case of multiple contracts or lots, Tenderers are allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) and for combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.

5. Comparison of Tenders

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

6. Abnormally Low Tenders and Abnormally

High Tenders Abnormally Low Tenders

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

1. In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
2. After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

Abnormally High Tenders

3. An abnormally high tender price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.
4. In case of an abnormally high tenders, the Procurement Entity should (a) review the specifications, and conditions of tender, or correctness of the estimate or (b) possibility of a collusion, formation of cartels, or other form of fraudulent and corrupt activity in the tendering processor (c) perception of the firms on the credibility of the Procuring Entity. The Procuring Entity shall treat abnormally low and high tenders in accordance with procedures provided for in this tender document
5. If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (often due to collusion, corruption or other manipulations), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

7. Unbalanced and/or Front-Loaded Tenders

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

1. After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may as appropriate:

1. Accept the Tender; or

2. Require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or
3. agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works; or
4. reject the Tender.
5. Qualification of the Tenderer

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

1. The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT18. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Tenderer that submitted the Tender.
2. An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offer substantially responsive Tender with the next lowest evaluated cost to make similar determination of that Tenderer's qualifications to perform satisfactorily.

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

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

F. Award of Contract

2. Award Criteria

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

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

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

1. The name and address of the Tenderer submitting the successful tender;
2. The Contract price of the successful tender;
3. a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
4. the expiry date of the Stand still Period; and
5. instructions on how to request a debriefing and/or submit a complaint during the standstill period;

2. Standstill Period

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

2. Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.
3. Debriefing by the Procuring Entity
 1. On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request. .2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.
4. Letter of Award
 1. Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.
5. Signing of Contract
 1. Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.
 2. Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.
 3. The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.
6. Performance Security
 1. Within twenty-one (21) days of the receipt of the Form of Acceptance from the Procuring Entity, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 3.9, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another Form acceptable to the Procuring Entity. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not required.
 2. Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Most Advantageous Tender.
7. Publication of Procurement Contract
 1. Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:
 1. Name and address of the Procuring Entity;

2. name and reference number of the contract being awarded, a summary of its scope and the selection method used;
3. the name of the successful Tenderer, the final total contract price, the contract duration.
4. Dates of signature, commencement and completion of contract;
5. Names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.
6. Adjudicator
 1. The Procuring Entity proposes the person named **in the TDS** to be appointed as Adjudicator under the Contract, at an hourly fee specified **in the TDS**, plus reimbursable expenses. If the Tenderer disagrees with the proposed Adjudicator, the Tenderer should so state in the Tender. If, in the Form of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.
7. Procurement Related Complaints
 1. The procedures for making a Procurement-related Complaint areas specified in the **TDS**.

SECTION II - TENDER DATA SHEET (TDS)

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

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1.1	<p>The reference number of the Request for Tenders (ITT) is: GDC/FLMT/OT/033/2021-2022</p> <p>The Procuring Entity is: Geothermal Development Company Ltd</p> <p>The name of the ITT is: Tender for Hire of Motor Vehicles for Transport Services through Framework Contract for a Period of Two (2) Years (on need basis)</p> <p>The number and identification of lots (contracts) comprising this ITT is: Schedules</p>
ITT 2.1(a)	<p>Electronic –Procurement System</p> <p>Geothermal Development Company Limited <u>shall not</u> use electronic procurement system to manage this Tendering process.</p>
ITT 2.2	The Intended Completion Date is: Two (2) years from the date of contract signing
ITT 3.3	Information that any unfair competitive advantage over competing firms is : N/A
ITT 3.4	The firms that provided consulting services: N/A
ITT 4.1	<p>Maximum number of members in the Joint Venture (JV) shall be: TWO</p> <p>In the case of Bids submitted by an existing or intended Joint Venture Consortium Agreement/Association (JVCA), provide an undertaking signed by all parties;</p> <p>i) stating that all parties shall be jointly and severally liable, state the lead in the JV Agreement and responsibilities/roles of each party.</p> <p>(ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JVCA during the bidding process and, in the event the JVCA is awarded the Contract, during contract execution."</p>
	B. Contents of Tendering Document
ITT 8.1	(a) A pre-tender conference and site visit will <u>not be held</u> .
ITT 8.2	Any questions regarding the tender to be in writing and should reach GDC not later than seven (7) days prior to the deadline for the submission of the tender.
ITT 9.1	<p>The Tenderer will submit any request for clarifications in writing to: -</p> <p style="text-align: center;">Manager, Supply Chain</p> <p style="text-align: center;">Geothermal Development Company Limited,</p> <p style="text-align: center;">Kawi House, South C, Bellevue</p>

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>Off Mombasa Road, Red Cross Road</p> <p>P.O. Box 100746 – 00101</p> <p>NAIROBI, KENYA</p> <p>E-mail: procurement@gdc.co.ke ;dkyaka@gdc.co.ke; & pkapto@gdc.co.ke</p> <p>And copy to: -</p> <p>Ag. Manager, Property Management Geothermal Development Company Ltd, P.O Box 100746 – 00101, Nairobi-Kenya. E-mail: aoyugi@gdc.co.ke: To reach GDC not later than 7th February 2022 at 4:00pm.</p> <p>GDC will respond in writing (e-mail in PDF format) to any request received at least Seven (7) days prior to the deadline for the submission of tender's.</p> <p>GDC shall publish its response for any enquiries/clarifications/questions/amendments relating to this tender at GDC website: www.gdc.co.ke & PPIP Portal www.tenders.go.ke_ and tenderers are advised to be checking this websites from time to time.</p> <p>GDC shall promptly publish response at the website : www.gdc.co.ke & PPIP Portal www.tenders.go.ke</p>
	C. Preparation of Tenders
ITT 15.1	Alternative Tenders <i>“shall not be”</i> considered.
ITT 15.2	Alternative times for completion <i>“shall not be”</i> permitted.
ITT 15.3	Alternative technical solutions shall be permitted for the following parts of the Services: N/A
ITT 16.7	The prices quoted by the Tenderer <i>“shall not”</i> be subject to adjustment during the performance of the Contract.
ITT 20.1	The Tender validity period shall be 120 Days .
ITT 21.1	A Tender Security <i>shall be</i> required, the amount and currency of the Tender Security shall be 200,000.00 valid for 150 days from the date of tender opening .
ITT 21.3 (a)	The Contract price shall <u>NOT</u> be adjusted .
ITT 22.1	In addition to the original of the Tender, the number of copy is: one (1) copy duly initiated, paginated and well bound (perfect binding is recommended). The original and the copy of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer.

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: A Power of Attorney in Company's letterhead nominating a person to transact on behalf of the company duly signed by the Company's Director and witnessed by an advocate <u>SHALL</u> be provided.
	D. Submission and Opening of Tenders
ITT 24.1	For tender submission purposes only, the address to be used shall as follows; <p style="text-align: center;">Managing Director & CEO Geothermal Development Company Ltd – Kawi House, South C, Red Cross Road, off Popo Road P.O Box 100746-00101, NAIROBI</p> <p>Electronic submissions are NOT allowed</p>
ITT 24.1	The deadline for Tender submission is 14th February, 2022 at 02:00pm. <p style="text-align: center;">Tender Box on Ground Floor, Geothermal Development Company Ltd – Kawi House, South C, Red Cross Road, off Popo Road P.O Box 100746-00101, NAIROBI</p>
ITT 27.1	The Tender opening shall take place at: <p>Date of Tender opening shall be 14th February, 2022 at 02:00pm. and shall take place at the address below;</p> <p style="text-align: center;">1st Floor, Boardroom Geothermal Development Company Ltd – Kawi House, South C, Red Cross Road, off Popo Road P.O Box 100746-00101, NAIROBI</p>
ITT 27.1	Tenderers <i>“shall not”</i> submit their Tenders electronically.
ITT 27.6	The Form of Tender and priced Activity Schedule shall be initialed by at least three (3) representatives of GDC Tender Opening Committee during tender opening.
	E. Evaluation and Comparison of Tenders
ITT 31.7	For comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified as follows: The adjustment shall be based on the <i>“average”</i> price of the item or component as quoted in other substantially responsive

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.
ITT 33.1	<p>The currency that shall be used for Tender evaluation and comparison purposes only to convert at the selling exchange rate. All tender prices expressed in various currencies into a single currency is Kenya Shillings</p> <p>The source of exchange rate shall be: The Central bank of Kenya</p> <p>The date for the exchange rate shall be: <i>The Tender Closing Date</i></p>
ITT 34.1	Margin of preference not allowed
ITT 34.2	<p>The invitation to tender is extended to the following group that qualify for Reservations</p> <p>: N/A</p>
ITT 35.2 (d)	Additional evaluation factors shall be N/A
ITT 35.4	Tenderers shall not be <u>allowed</u> to quote separate prices for different lots (contracts) and the methodology to determine the lowest tenderer is specified in Section III, Evaluation and Qualification Criteria.
	F. Award of Contract
ITT 49.1	The Adjudicator proposed by the Procuring Entity is N/A . The hourly fee for this proposed Adjudicator shall be N/A . The biographical data of the proposed Adjudicator is as follows: N/A .
ITT 50.1	<p>The procedures for making a Procurement-related Complaint are available from the PPRA Website www.ppra.go.ke or email complaints@ppra.go.ke.</p> <p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p style="text-align: center;">Managing Director & CEO</p> <p style="text-align: center;">Geothermal Development Company Ltd – Kawi House, South C,</p> <p style="text-align: center;">Red Cross Road, off Popo Road</p> <p style="text-align: center;">P.O Box 100746-00101, NAIROBI</p> <p style="text-align: center;">Email address: info@gdc.co.ke</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p>

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>(i) the terms of the Tender Documents; and</p> <p>(ii) the Procuring Entity’s decision to award the contract.</p>

SECTION III – EVALUATION AND QUALIFICATION CRITERIA

The following evaluation criteria shall be applied notwithstanding any other requirement in the tender documents.

1. Mandatory Evaluation Requirements/Criteria
2. Technical Evaluation Requirements/Criteria
3. Financial Evaluation Requirements/Criteria

Preliminary/Mandatory Evaluation Requirements/Criteria	
No.	Requirement
1.	Dully filled, Signed & Stamped Form of Tender in the format provided.
2.	Dully filled, Signed & Stamped Price Schedules.
3.	Provide an Original tender security in the amount of Kshs. 200,000.00 in the form of a bank or insurance guarantee issued by a bank or insurance operating in Kenya and valid for at least thirty (30) days beyond the tender validity period.
4.	Certified copy of Certificate of Incorporation/ Registration in Kenya by an advocate
5.	Certified copy of Tax compliance certificate by an advocate valid at the time of opening. The validity of the Tax certificate shall be confirmed from KRA Tax Checker
6.	Certified copy of Certificate of Confirmation of Directors and Shareholding (CR12) for limited companies by an advocate or ID card for Sole Proprietorships by an advocate
7.	Certified copy of Valid Business Permit by an advocate
8.	Duly filled, Signed and Stamped Certificate of Independent Tender Determination in the format provided – Section IV.
9.	Duly filled, Signed and Stamped Self Declaration Form (FORM SD1) That The Person/Tenderer Is Not Debarred In The Matter Of The Public Procurement And Asset Disposal ACT 2015 in the format provided.
10.	Duly filled, Signed and Stamped Self Declaration Form (FORM SD2) That The Person/Tenderer Will Not Engage In Any Corrupt Or Fraudulent Practice in the format provided.
11.	Duly filled, Signed and Stamped Declaration and Commitment to The Code Of Ethics in the format provided.
12.	Duly filled, Signed and Stamped Tenderer Information Form in the format provided.
13.	Duly filled, Signed and Stamped Tenderer's JV Members Information Form in the format provided. <i>This is applicable to parties in JV agreement only.</i>
14.	Duly filled, Signed and Stamped Tenderer's Eligibility - Confidential Business Questionnaire Form in the format provided – Section IV.
15.	Provide a commitment letter in Company's letterhead duly signed and stamped by the person lawfully authorized & certified by an advocate stating that History of Non-performance of a contract did not occur within the last Five (5) years.

16.	Provide a duly signed & stamped written confirmation letter in company's letterhead that the prices quoted shall remain valid for a period of twelve (12) months (1 year) from the date contract is signed and there shall be no price variations/adjustments.
17.	Provide a Power of Attorney witnessed by an advocate indicating that the tender has been duly signed by the person lawfully authorized to do so. In the case of Bids submitted by an existing or intended Joint Venture Consortium Agreement/Association (JVCA), provide an undertaking signed by all parties; <ol style="list-style-type: none"> 1. stating that all parties shall be jointly and severally liable, and 2. nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JVCA during the bidding process and, in the event the JVCA is awarded the Contract, during contract execution."
18.	Fleet Size (Owned or Leased) shall be above 25 vehicles – Bidders must attach copies of log books or certified lease agreement by an advocate.
19.	Evidence of at least VALID fifteen (15) PSV Driver's License employed or contracted – Bidders must attach copies of drivers driving licenses.
20.	All Motor vehicles provided shall satisfy all legal requirements as stipulated by the National Transport and Safety Authority from time to time – Bidders must attach copies of TLB license and other relevant documents
21.	All motor vehicles provided MUST be comprehensively insured - Bidders must attach copies of insurance covers.
22.	The bidder must have online and/or mobile application platform for managing transport service request, approval processes and journey billing – Bidders to provide application details and log in credentials.
23.	Appointment of an account manager to offer corporate support and clarification of required information on need basis - Bidders must provide a written commitment in company's letterhead duly signed and stamped nominating account manager for this assignment.
24.	The firm must have an average annual turnover of at least Kshs.5,000,000 and above - Bidders must provide audited accounts and financial statements for the last three (3) years (2020,2019 & 2018) certified by an advocate.
25.	Existence of an established office with personnel and a call center managed 24/7 - Bidders must attach a company profile complete with the physical address , telephone numbers, email addresses and 24/7 call center numbers.
26.	Qualification of training & experience of key Management Staff must be Degree or Diploma holder - Bidders must attach CV's & copies of academic certificates of the below named key management staff certified by an advocate. <ol style="list-style-type: none"> 1. Managing Director 2. Operations Manager 3. Account Manager
27.	The vehicles shall be adequately fueled all the time - Bidders must provide a written undertaking in company's letterhead duly signed and stamped committing to all times comply to all this requirement.
28.	The bidder shall give ample notice for any occasioned delays and provide alternative vehicles and drivers of similar or better quality in case of unavoidable delays or breakdowns

	- Bidders must provide a written undertaking in company's letterhead duly signed and stamped committing to all times comply to all this requirement.
29.	Compliance to GDC Payment terms as per Section VII of the tender document – Tenderers to provide a written declaration/undertaking in Company's letterhead duly signed and stamped conforming and agreeing to GDC Payment terms as stated in Special Conditions to Contract (SCC), Section VII of the tender document.

NB: Tenderers who will not meet the above requirements will be declared non-responsive and their bids will not be evaluated further. Please note that the authenticity of the above documents provided may be verified with the issuing/relevant authority and any forgery or false presentation in any one of the above shall lead to automatic disqualification and render the tenderers bid non-responsive. Note that you may be required to produce original Certificates for ease of verification.

GDC reserves the right to carryout independent investigations to verify the accuracy of information provided without notifying the tenderer.

1. Technical Evaluation Criteria

No	Technical Evaluation Requirements	Attached (Yes/No)
1.	<p>Experience</p> <p>Firms experience in providing hired transport services in the last five years.</p> <ol style="list-style-type: none"> 1. Attach a list of clients that should contain information of contract values, contact persons and description of services performed for the last five years. 2. Attach not less than five (5) current contracts from the listed clients in (i) above. 3. Attach at least five (5) recommendation letters from the listed clients in (ii) above. 4. Provide a commitment letter in company's letterhead duly signed and stamped that the Firm is capable of providing transport services across the country. 	
2.	<p>Fleet Capacity</p> <p>The firm must be capable of offering hired services for the following Fleet Categories;</p> <ol style="list-style-type: none"> 1. 5 Seater Saloon Vehicles (Standard) 2. 5 Seater Saloon (Executive) 3. 7 Seater 4by4 (Toyota Prado/Pajero) 4. 8 Seater Mini Van 5. 9 Seater 4by4 Toyota Land Cruisers Tour Van 6. 14 Seater Vans 7. 25 Seater Buses 8. 35 Seater Buses 9. 50 Seater Buses 	

	Firms are requested to provide evidence of ownership/lease agreement of each class of vehicle – Tenderers to Provide copies of log books or lease agreements certified by an advocate.	
3.	Security/ Safety <ol style="list-style-type: none"> 1. A well elaborate Complaint Management system. 2. Incident(s) Escalation Matrix 3. Specific Safety Standards that the service provider has put in Place 4. Past Record and Staff Safety 5. Fleet Services Convenience 6. Emergency Rescue Services - in cases of breakdown. 7. Fueling 8. Cleanliness 9. Adherence to the traffic regulations 10. Driver Management and conduct 11. Delays handling procedure Tenderers to provide detailed methodology and standard procedures covering each of the above.	
4.	Automated System - System Capability <p>The On-line system should have the following minimum requirement: -</p> <ol style="list-style-type: none"> 1. Web and /or Mobile App Ready. 2. Online System (Web/Mobile App) Corporate Account Security. 3. Corporate Accounts Management. 4. Request Pre-approvals on Web and or Mobile Application. 5. Reports - Daily, Weekly, Monthly 6. Audit Logs Capability Tenderers to provide detailed proposed application covering each of the above.	

NB: Tenderers who will not meet the above requirements will be declared non-responsive and their bids will not be evaluated further

Financial Evaluation

1. No correction of arithmetic errors -The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.
2. Award Criteria: This will be based on the lowest evaluated bid for the four schedules inclusive of VAT.
3. GDC will sign a contract with the successful firm and the contract will have a ceiling price to be utilized for a period of two (2) years.

Note: Financial evaluation: For purposes of financial evaluation and comparison of bids offered, the following information shall form the basis of financial evaluation and analysis to determine the lowest evaluated bid:

- a)The mileage and duration per journey shall be 30km and 30 minutes respectively.
- b)A waiting time of hour shall apply for each journey.
- c) Journey cost in Kenya Shillings shall therefore be equal to:

Base fare + (Journey charge per km *30km) +(Journey charge per min *30mins) +(60mins-Allowable waiting time without charge) *charge per minute.

Where calculated/determined journey cost is less than minimum fare charge; the minimum fare charge shall be regarded as the cost of the journey.

GDC may carry out due diligence to ascertain the capacity of the successful tenderer before award.

1. Evaluation of Commercial Terms and Conditions of the Tender (ITT 33.1(a)):

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

2. Evaluation Criteria (Other Factors) (ITT 33.6)

The Procuring Entity's evaluation of a Tender may take into account, in addition to the Tender Price quoted in accordance with ITT 13.8, one or more of the following factors as specified in ITT 33.2(d) and in TDS ITT 33.6, using the following criteria and methodologies.

1. Delivery schedule.

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

2. Deviation in payment schedule. *[insert one of the following]*

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

Alternative payment schedule

1. Cost of major replacement components, mandatory spare parts, and service.

Tenderer shall provide along with its Tender, the list of recommended spare parts for Goods offered indicating for each item of spare part the recommended quantity and unit, and total CIP final destination prices required during the initial period of operation specified in the TDS 15.4. The prices offered shall not exceed the prevailing prices charged to other parties by the Tenderer. The cost of such spare parts will not be taken into account for tender evaluation. The Procuring Entity may award the contract for spare parts to the Tenderer that is successful for the supply of Goods, by selecting at its option, from the Tender's list of recommended spare parts, such items and quantities against each as the Procuring Entity may deem appropriate at the unit prices indicated by the Tenderer but not exceeding 15% (present) of the cost of Goods

2. **Availability in Kenya** of spare parts and after sales services for equipment offered in the Tender.

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

3. Life Cycle Costs

4. **Performance and productivity of the equipment: *[insert one of the followings]***

1. Performance and productivity of the equipment. An adjustment representing the capitalized cost of additional operating costs over the life of the goods will be added to the Tender price, for evaluation purposes if specified in the TDS 33.6. The adjustment will be evaluated based on the drop in the guaranteed performance or efficiency offered in the Tender below the norm of 100, using the methodology specified below. **N/A**

or

5. **Specific additional criteria N/A**

1. Multiple Contracts (ITT 33.4)

Multiple contracts will be permitted in accordance with ITT 33.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

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

OPTION 2

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

1. **Post-Qualification Criteria (ITT 37.1)**

In case the tender was not subject to pre-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions (post qualification Criteria applied on a GO/NO GO basis). The Procuring Entity shall carry out the post-qualification of the Tenderer in accordance with ITT 37, using only the requirements specified herein. Requirements not included in the text below shall not be used in the evaluation of the Tenderer's qualifications. The minimum qualification requirements for multiple contracts will be the sum of the minimum requirements for respective individual contracts, unless otherwise specified.

2. **If the Tenderer is a manufacturer**

1. Financial Capability

1. The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the supply cash flow of at least **2.5 times of the tendered price**

2. Minimum average annual supply turnover of at least **2.5 times the total Tender price**

1. Experience and Technical Capacity

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

2. If Tenderer is a Supplier:

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

1. The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the supply cash flow of Kenya Shillings N/A .
2. Minimum average annual supply turnover of Kenya Shillings N/A or equivalent calculated as total certified payments received for contracts in progress and/or completed within the last *[insert of year]* years, divided by *[insert number of years]* years.
3. Has satisfactorily and substantially completed at least **THREE (3) contracts** of a similar nature either within Kenya, the East African Community or abroad, as a prime supplier or a joint venture member, each of a minimum value in Kenya shillings N/A equivalent.

1. History of non-performing contracts:

Tenderer (Supplier or/and manufacturer, and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur as a result of the default of the Tenderer, manufacturer or the member of JV as the case may be, in the three (3) years. The required information shall be furnished as per form CON-2].

2. Pending Litigation

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

4.6. Litigation History

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

SECTION IV - TENDERING FORMS

1. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

1. *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*
2. *All italicized text is to help Tenderer in preparing this form.*
3. *Tenderer must complete and sign and **TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE, CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER**, all attached to this Form of Tender.*
1. *The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.*
 1. *Tenderer's Eligibility-Confidential Business Questionnaire*
 - a) *Certificate of Independent Tender Determination*
 - c) *Self-Declaration of the Tenderer.*

Date of this Tender submission: *[insert date (as day, month and year) of Tender submission]* **ITT No.:**.....*[insert number of ITT process]*

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

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

1. **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with ITT 9;
2. **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4;
3. **Tender-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 4.7;
4. **Conformity:** We offer to provide the Maintenance services in conformity with the tendering document of the following: *[insert a brief description of the Maintenance services];*
5. **Tender Price:** The total price of our Tender, excluding any discounts offered in item (f) below is: *[Insert one of the options below as appropriate]*

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

Or

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

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

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

2. The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
7. **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 19.1 (as amended if applicable) from the date fixed for the Tender submission deadline (specified in TDS 23.1 (as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
8. **Performance Security:** If our Tender is accepted, we commit to obtain a Performance Security in accordance with the tendering document;
9. **One Tender Per Tenderer:** We are not submitting any other Tender (s) as an individual Tenderer, and we are not participating in any other Tender (s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 14;
10. **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA. Further, we are not ineligible under Kenya's official regulations or pursuant to a decision of the United Nations Security Council;
11. **State-owned enterprise or institution:** [select the appropriate option and delete the other] [We are not a state-owned enterprise or institution]/[We are a state-owned enterprise or institution but meet the requirements of ITT 4.6];
12. **Commissions, gratuities and fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: [insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].

<input type="checkbox"/> We are not a state-owned enterprise or institution	<input type="checkbox"/> We are a state-owned enterprise or institution but meet the requirements of ITT 4.6	<input type="checkbox"/> We are not a state-owned enterprise or institution	<input type="checkbox"/> We are a state-owned enterprise or institution but meet the requirements of ITT 4.6

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

13. *[Delete if not appropriate ,or amend to suit]* We confirm that we understand the provisions relating to Standstill Period as described in this tendering document and the Procurement Regulations.
14. **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Form of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
15. **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive; and
16. **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.

17. **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.
18. **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Suppliers, Contractors and Service Providers, copy available from _____ (*specify website*) during the procurement process and the execution of any resulting contract.
19. We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
 1. Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
 2. Certificate of Independent Tender Determination - to declare that we completed the tender without colluding with other tenderers.
 3. Self-Declaration of the Tenderer- to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in

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

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

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

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

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

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

2) TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

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

1. Tenderer's details

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

General and Specific Details

2. **Sole Proprietor**, provide the following details.

Name in full_____Age_____

Nationality_____Country of Origin_____

Citizenship_____

3. **Partnership**, provide the following details

	NamesofPartners	Nationality	Citizenship	%Sharesowned
1				
2				
3				

4. **Registered Company**, provide the following details.

1. Private or public Company _____

2. State the nominal and issued capital of the Company:-

Nominal Kenya Shillings (Equivalent) _____

Issued Kenya Shillings (Equivalent) _____

3. Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

1. **DISCLOSURE OF INTEREST**-Interest of the Firm in the Procuring Entity.

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

If yes, provide details as follows.

	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer
1			
2			
3			

2. Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

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

Full Name _____

Title or Designation _____

(Signature)

(Date)

3) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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

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

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 1. Has been requested to submit a Tender in response to this request for tenders;
 2. could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that **[check one of the following, as applicable]**:
 1. The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 2. The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
 6. In particular, without limiting the generality of paragraphs (5) (a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 1. prices;
 2. methods, factors or formulas used to calculate prices;
 3. the intention or decision to submit, or not to submit, a tender; or
 4. the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5) (b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5) (b) above;
8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name_____

Title_____

Date _____

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

SELF-DECLARATION FORMS

4) FORM SD 1

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

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

1. THAT I am the 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

5) FORM SD2

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

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

1. THAT I am the 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)

..... (Title)
(Date)

Bidder's Official Stamp

6) 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 shall not be modified)

1. Purpose

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

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. 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 subsection commits an offence;
2. Without limiting the generality of the subsection (1) and (2), the person shall be:-
 1. disqualified from entering a contract for a procurement or asset disposal proceeding; or
 2. if a contract has already been entered into with the person, the contract shall be voidable;
3. The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
4. 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:-
 1. Shall not take part in the procurement proceedings;
 2. Shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
 3. shall not be a subcontractor for the tenderer to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontract or appointed shall meet all the requirements of this Act.
5. 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;
6. 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.

3. In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
 1. Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 1. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 2. "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;
 3. "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;
 4. "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;
 5. "obstructive practice" is:
 1. 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
 2. 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.

1. Rejects a proposal for award¹ 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;
2. 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;
3. 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 inspect² 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
4. 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.

7)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].

ITT No.: _____ *[insert number of Tendering process]*

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

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>
<div><div></div></div>
6. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
<ul style="list-style-type: none">•••

Sign.....Stamp.....

8) PRICE SCHEDULE

1. FINANCIAL EVALUATION CRITERIA

Duly filled/Completed Price Schedule/Costing of all items

No arithmetic Error – The tender sum as read out during tender opening shall be final and not subject to adjustment, correction or amendment in any way by any person.

Only those bids which satisfy the technical requirements will be considered.

- i. Financial evaluation shall involve checking completeness of financial bids.
- ii. The Procuring entity shall offer award of tenders at the lowest quoted tender rate (s) to firms that are technically compliant in respective areas of coverage.

Note: Financial evaluation: For purposes of financial evaluation and comparison of bids offered, the following information shall form the basis of financial evaluation and analysis to determine the lowest evaluated bid:

- ☐ The mileage and duration per journey shall be 30km and 30 minutes respectively.
- ☐ A waiting time of hour shall apply for each journey.
- ☐ Journey cost in Kshs. shall therefore be equal to:

Base fare + (Journey charge per km *30km) +(Journey charge per min *30mins) +(60mins-Allowable waiting time without charge) *charge per minute.

☐ Where calculated/determined journey cost is less than minimum fare charge; the minimum fare charge shall be regarded as the cost of the journey.

Schedule One (1) - Standard trip charges within major urban areas

S/N	DESCRIPTION	COST (KES) VAT	COST (KES) VAT	COST (KES) VAT INCLUSIVE
		Vehicles 5 seater (Standard)	Vehicles 5 seater (Executive)	Vehicles 7 seater (Mini-Van)
i.	Base/Fixed Charge			
ii.	Per Minute Billing			
iii.	Per Kilometer Billing			
iv.	Allowable waiting time without incurring charges			
v.	Waiting charges per minute			
vi.	Cancellation charges			
Total rate summation (Kshs)				

Base fare + (Journey charge per km *30km) +(Journey charge per min *30mins) +(60mins-Allowable waiting time without charge) *charge per minute.

Schedule Two (2) – Half Day Hire Rates (4 Hours)

	Half Day Hire Rates (4 hours)	Fixed Cost (A)	Kilometer Cost (B)	Other Charges (C)	Total Charges/rate A+B+C
i.	5 Seater Saloon Vehicles (Standard)				
ii.	5 Seater Saloon (Executive)				
iii.	7 Seater 4by4 (Toyota Prado/Pajero)				
iv.	8 Seater Van				
v.	9 Seater 4by4 Toyota Land Cruisers Tour Van				
vi.	14 Seater Vans				
vii.	25 Seater Buses				
viii.	35 Seater Buses				
ix.	50 Seater Buses				
	Rate summation (Kshs)				

Schedule Three (3) – Full Day Hire Rates (8 Hours) without a driver

	Full Day Hire Rates (8 Hours) without a driver.	Fixed Cost (A)	Kilometer Cost (B)	Other Charges (C)	Total Charges/rate A+B+C
i.	5 Seater Saloon Vehicles (Standard)				
ii.	5 Seater Saloon (Executive)				
iii.	7 Seater 4by4 (Toyota Prado/Pajero)				
	Total rate summation (Kshs)				

Schedule Four (4) – Full Day Hire Rates > 8hrs with driver

	Full day Hire Rates > 8 Hours with driver	Fixed Cost (A)	Kilometer Cost (B)	Driver Per Diem/day (C)	Other Charges (D)	Total Charges A+B+C+D
i.	5 Seater Saloon Vehicles (Standard)					
ii.	5 Seater Saloon (Executive)					
iii.	7 Seater 4by4 (Toyota Prado/Pajero)					
iv.	8 Seater Van					
v.	9 Seater 4by4 Land Cruisers Tour Van					
vi.	14 Seater Vans					
vii.	25 Seater Buses					
viii.	35 Seater Buses					
ix.	50 Seater Buses					
	Total rate summation					

PART II – PROCURING ENTITY'S REQUIREMENTS

SECTION V - SCHEDULE OF REQUIREMENTS/SPECIFICATIONS.

1 Specification Details

1.1 GDC is seeking a service provider for the hire of fleet services for the following category of vehicles.

1. 5-Seater Saloon Vehicles
2. 5-Seater Saloon (Executive)
3. 7-Seater 4by4 (Toyota Prado/Pajero)
4. 8-Seater Van
5. 9-Seater 4by4 Land Cruisers Tour Van
6. 14-Seater Vans
7. 25-Seater Buses
8. 35-Seater Buses
9. 50-Seater Buses

1.2 The hired fleet shall be hired on the following basis;

1. Half Day Hire Rates (4 Hours)
2. Full Day Hire Rates (8 Hours)
3. Full Day Hire Rates > 8 with driver
4. Full Day Hire Rates > 8 without driver

1.3 Fleet Size (Owned or Leased) shall be above 25 vehicles – Bidders must attach copies of log books or certified lease agreement by an advocate.

1.4 Bidders shall provide evidence of valid PSV Driver's License for employed or contracted staff.

1.5 All Motor vehicles provided shall satisfy all legal requirements as stipulated by the National Transport and Safety Authority from time to time

1.6 Bidders must attach copies of TLB license and other relevant documents

1.7 All motor vehicles provided MUST be comprehensively insured

1.8 The bidder must have online and/or mobile application platform for managing transport service request, approval processes and journey billing.

1.9 Appointment of an account manager to offer corporate support and clarification of required information on need basis

1.10 The firm must have an average annual turnover of at least Kshs.5,000,000 and above

1.11 Bidders must provide audited accounts and financial statements for the last three (3) years (2020,2019 & 2018) certified by an advocate.

1.12 Bidders must have an established office with personnel and a call center managed 24/7

1.13 Bidders must attach a company profile complete with the physical address, telephone numbers, email addresses and 24/7 call center numbers.

1.14 bidders shall provide the qualifications and experience of key Management Staff.

1.15 The bidder shall give ample notice for any occasioned delays and provide alternative vehicles and drivers of similar or better quality in case of unavoidable delays or breakdowns

PART III – CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VI - GENERAL CONDITIONS OF CONTRACT

1. General Provisions

1. Definitions

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

1. The Adjudicator is the person appointed jointly by the Procuring Entity and the Service Provider to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.
 2. "Activity Schedule" is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;
 1. "Completion Date" means the date of completion of the Services by the Service Provider as certified by the Procuring Entity
 2. "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
 3. "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;
 4. "Day works" means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration.
5. "Procuring Entity" means the Procuring Entity or party who employs the Service Provider
6. "Foreign Currency" means any currency other than the currency of Kenya;
7. "GCC" means these General Conditions of Contract;
8. "Government" means the Government of Kenya;
9. "Local Currency" means Kenya shilling;
10. "Member," in case the Service Provider consist of a joint venture of more than one entity, means _____ any _____ of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Service Provider' rights and obligations towards the Procuring Entity under this Contract;
 11. "Party" means the Procuring Entity or the Service Provider, as the case may be, and "Parties" means both of them;
 12. "Personnel" means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof;
 13. "Service Provider" is a person or corporate body whose Tender to provide the Services has been accepted by the Procuring Entity;
 14. "Service Provider's Tender" means the completed Tendering Document submitted by the Service Provider to the Procuring Entity
15. "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;
16. "Specifications" means the specifications of the service included in the Tendering Document submitted by the Service Provider to the Procuring Entity
17. "Services" means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider's Tender.

18. “Subcontractor” means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4;
19. “Public Procurement Regulatory Authority (PPRA)” shall mean the Government Agency responsible for oversight of public procurement.
20. “Project Manager” shall the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor.

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

1. 1.2 Applicable Law

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

2. 1.3 Language

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

3. 1.4 Notices

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

4. 1.5 Location

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

5. 1.6 Authorized Representatives

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

6. 1.7 Inspection and Audit by the PPRA

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

7. 1.8 Taxes and Duties

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

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

1. 2.1 Effectiveness of Contract

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

2. 2.3 Commencement of Services

3. 2.4 Program

4. 2.5 Starting Date

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

5. 2.6 Intended Completion Date

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

6. 2.6 Modification

1. 2.6.1 Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

2. 2.6.2 Value Engineering

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

1. The proposed change(s), and a description of the difference to the existing contract requirements;
2. a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs, if applicable) the Procuring Entity may incur in implementing the value engineering proposal; and
3. a description of any effect(s) of the change on performance/functionality.

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

1. accelerates the delivery period; or
2. reduces the Contract Price or the lifecycle costs to the Procuring Entity; or
3. improves the quality, efficiency, safety or sustainability of the services; or
4. yields any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

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

1. a reduction of the Contract Price; the amount to be paid to the Service Provider shall be the percentage specified in the SCC of the reduction in the Contract Price; or
2. an increase in the Contract Price; but results in a reduction in lifecycle costs due to any benefit described in
 1. to (d) above, the amount to be paid to the Service Provider shall be the full increase in the Contract Price.

2. 2.7 Force Majeure

1. 2.7.1 Definition

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

2. 2.7.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative

Measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

3. 2.7.4 Extension of Time

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

4. 2.7.5 Payments

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

3. 2.8 Termination

1. 2.8.1 By the Procuring Entity

The Procuring Entity may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through

(d) of this Sub-Clause 2.6.1:

1. If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Procuring Entity may have subsequently approved in writing;
2. If the Service Provider become insolvent or bankrupt;
3. if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
4. if the Service Provider, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2 a. of Attachment 1 to the GCC, in competing for or in executing the Contract

1. 2.8.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Procuring Entity, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and

(b) of this Sub-Clause 2.6.2:

1. If the Procuring Entity fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
2. if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

1. 2.8.3 Payment upon Termination

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

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

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

2. Obligations of the Service Provider

1. 3.1 General

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

2. 3.2 Conflict of Interests

1. 3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

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

2. 3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

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

3. 3.2.3 Prohibition of Conflicting Activities

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

1. During the term of this Contract, any business or professional activities in Kenya which would conflict with the activities assigned to them under this Contract;
2. during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;

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

3. 3.3 Confidentiality

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

4. **3.4 The Service Provider** (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Procuring Entity's request, shall provide evidence to the Procuring

Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.

5. 3.5 Service Provider's Actions Requiring Procuring Entity's Prior Approval

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

1. entering into a subcontract for the performance of any part of the Services,

2. appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),
 3. changing the Program of activities; and
 4. any other action that may be **specified in the SCC**.
1. 3.6 Reporting Obligations

The Service Provider shall submit to the Procuring Entity the reports and documents specified in Appendix Bin the form, in the numbers, and within the periods set forth in the said Appendix.
2. 3.7 Documents Prepared by the Service Provider to Be the Property of the Procuring Entity

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Procuring Entity, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.
3. 3.8 Liquidated Damages
 1. 3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Procuring Entity at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Procuring Entity may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.
 2. 3.8.2 Correction for Over-payment

If the Intended Completion Date is extended after liquidated damages have been paid, the Procuring Entity shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.
 3. 3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC**.
4. 3.9 Performance Security

The Service Provider shall provide the Performance Security to the Procuring Entity no later than the date specified in the Form of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.
5. 3.10 Fraud and Corruption

The Procuring Entity requires compliance with the Government's Anti-Corruption laws and its prevailing sanctions. The Procuring Entity requires the Service Provider to disclose any commissions or fees that may

have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

6. 3.11 Sustainable Procurement

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

7. Service Provider's Personnel

1. 4.1 Description of Personnel

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

2. 4.2 Removal and/or Replacement of Personnel

1. Except as the Procuring Entity may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.
2. If the Procuring Entity finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.
3. The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

3. Obligations of the Procuring Entity

1. 5.1 Assistance and Exemptions

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

2. 5.2 Change in the Applicable Law

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

3. 5.3 Services and Facilities

The Procuring Entity shall make available to the Service Provider the Services and Facilities listed under Appendix F.

4. Payments to the Service Provider

1. 6.1 Lump-Sum Remuneration

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

2. 6.1.1

Where the contract price is different from the corrected tender price, in order to ensure the contract or is not paid less or more relative to the contract price (*which would be the tender price*), any part payment valuation and variation orders on omissions and additions valued based on rates in the schedule of rates in the Tender, will be

6.1.2 Adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: *(corrected tender price-tender price)/tender price X100*.

2. 6.2 Contract Price

1. The price payable is **set forth in the SCC**.
2. No price will be payable in foreign currency.

1. 6.3 Payment for Additional Services, and Performance Incentive Compensation

1. 6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

2. **6.3.2 If the SCC so specify**, the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.

2. 6.4 Terms and Conditions of Payment

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

3. 6.5 Interest on Delayed Payments

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

4. 6.6 Price Adjustment

1. 6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c L_{mc}/L_{oc} + C_c I_{mc}/I_{oc}$$

Where:

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

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

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

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

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

2. 6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

5. 6.7 Dayworks

1. 6.7.1 If applicable, the Day work rates in the Service Provider's Tender shall be used for small additional amounts of Services only when the Procuring Entity has given written instructions in advance for additional services to be paid in that way.
2. 6.7.2 All work to be paid for as Dayworks shall be recorded by the Service Provider on forms approved by the Procuring Entity. Each completed form shall be verified and signed by the Procuring Entity representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.
3. 6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2

6. Quality Control

1. 7.1 Identifying Defects

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

2. 7.2 Correction of Defects, and Lack of Performance Penalty

1. The Procuring Entity shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
2. Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Procuring Entity's notice.
3. If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, the Procuring Entity will assess the cost of having the Defect corrected, the Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

3. Settlement of Disputes

1. 8.1 Contractor's Claims

1. 8.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.
2. 8.1.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
3. 8.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

1. 8.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring

Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

2. 8.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full Supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
 1. This fully detailed claim shall be considered as interim;
 2. The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
 3. The Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.
3. 8.1.6 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars but shall never the less give his response on the principles of the claim with in the above defined time period.
4. 8.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
5. 8.1.8 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
6. 8.1.9 If the Project Manager does not respond within the time frame defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 8.2 [Matters that may be referred to arbitration].
7. 8.1.10 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub- Clause.
2. 8.2 Matters that may be referred to arbitration
 1. **8.2.1** Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Services or abandonment of the Services or termination of the Contract by either party:
 1. The appointment of a replacement Project Manager upon the said person ceasing to act.
 2. Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
 3. Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.

1. Any dispute arising in respect of war risks or war damage.
2. All other matters shall only be referred to arbitration after the completion or alleged completion of the Services or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

1. 8.3 Amicable Settlement

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

2. 8.4 Arbitration

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

1. 8.4.2 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

2. 8.4.3 Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

3. 8.4.5 Arbitration may be commenced prior to or after completion of the services. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the services.

4. 8.4.6 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

5. 8.5 Arbitration with proceedings

1. 8.5.1 In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

1. Law Society of Kenya
2. Chartered Institute of Arbitrators (Kenya Branch)

2. 8.5.2 The institution written to first by the aggrieved party shall take precedence overall other institutions.

3. 8.5.3 The arbitration may be on the construction of this Contract or on any matter or thing of whatsoever nature arising there under or in connection there with, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to be entitled

to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

4. 8.5.4 Provided that no arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
5. 8.5.5 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
6. 8.5.6 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.
7. 8.5.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.
8. 8.5.8 The award of such Arbitrator shall be final and binding upon the parties.

6. 8.6 Failure to Comply with Arbitrator's Decision

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

7. The Adjudicator

1. 9.1. Should the Adjudicator resign or die, or should the Procuring Entity and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Procuring Entity and the Service Provider. In case of disagreement between the Procuring Entity and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 14 days of receipt of such request.
2. 9.2 The Adjudicator shall be paid by the hour at the rate **specified in the TDS and SCC**, together with reimbursable expenses of the types **specified in the SCC**, and the cost shall be divided equally between the Procuring Entity and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and the Supplements to, Clauses in the General Conditions of Contract
1.1 (a)	The adjudicator is
1.1 (w)	Project Manager – Ag. Manager, Property Management
1.1 (e)	Contract Name: Hire of Motor Vehicles for Transport Services for a Period of two years through framework contract (on need basis)
1.1 (h)	GDC is: Geothermal Development Company
1.1 (m)	The Member in charge is
1.1 (p)	The Service Provider is
1.4	<p>The Address are :</p> <p>Geothermal Development Company (GDC)</p> <p>P.O. Box 100746 – 00101</p> <p>Nairobi, Kenya</p> <p>Attention : The Managing Director & CEO</p> <p>Telephone: 020-2427516/0719037000</p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Email address:</p>
1.6	<p>The authorized representatives are:</p> <p>For GDC – Managing Director & CEO</p> <p>For the service provider: _____</p>
2.1	The date in which this contract shall come to effect is:
2.2.2	The starting date for the commencement of service is:
2.3	The intended completion date: After lapse of two year period
2.4.1	<p>If the value engineering proposal is approved by GDC, the amount to be paid to the Service provider shall be N/A</p> <p><i>(The percentage is normally up to 50% of the reduction in the contract price)</i></p>

3.2.3	Activities prohibited after termination of this contract are:
3.4	The risks and coverage by insurance shall be: N/A 1. Third Party motor vehicle _____ 2. Third Party liability _____ 3. GDC's Liability and workers' compensation _____ 4. Professional Liability _____ 5. Loss or damage to equipment and property _____
3.5 (d)	The other actions are: _____
3.7	Restrictions on the use of documents prepared by the Service Provider are:
3.8.1	The liquidated damages rate is 0.05% per day The maximum amount of liquidated damages for the whole contract is 10% Percent of the final contract price.
3.8.3	The percentage _____ to be used for the calculation of lack of performance penalty(ies) is _____
3.9	A performance security of 10% of the total contract ceiling price is required for this tender. The security should be from a reputable commercial bank operating in Kenya and should be valid for thirty days beyond the contract completion period.
5.1	The assistance and exemptions provided to the eservice provider are: _____ _____
6.2(a)	The amount in Kenya Shillings _____
6.3.2	The performance incentive paid to the service provider shall be ___N/A
6.4	Payment shall be made according to the following schedule: 1. The Customer shall upon execution of this Agreement sign a contract. 2. The credit period shall be within sixty (60) days upon receipt of certified invoices and delivery notes confirming that the invoiced services have been delivered and the service was in accordance with the contract. 3. Payment shall be made through Geothermal Development Company's cheque or telegraphic transfer of the contract. 4. Advance Payment shall not apply. 5. No interest on delayed payments
6.5	Payment shall be made within 60 days of receipt of the invoice and the relevant documents specified in sub-clause 6.4 and within _____ days in the case of the final payment.

6.6.1	<p>The price adjustment is _____ in accordance with Sub-clause 6.6.</p> <p>The coefficient for adjustment of prices are _____</p> <p>1. For local currency:</p> <p>A_L is _____</p> <p>B_L is _____</p> <p>C_L is _____</p> <p>L_{me} and L_{oc} are the index for labour from _____</p> <p>L_{me} and L_{oc} are the index for _____ from _____</p> <p>2. For foreign currency:</p> <p>A_F is _____</p> <p>B_F is _____</p> <p>C_F is _____</p> <p>L_{mc} and L_{oc} are the index for Labour from _____</p> <p>L_{mc} and L_{oc} are the index for _____ from _____</p>
7.1	<p>The principle and modalities of inspection of the services by GDC are as follows:</p> <p>_____</p> <p>The defects liability Period is _____</p>
9.1	<p>The designated Appointment Authority for a new Adjudicator is _____</p>
9.2	<p>The adjudicator is _____, who will be paid a rate of _____ per hour of work. The following reimbursable expenses are recognized:</p> <p>_____</p>

SECTION VIII -CONTRACT FORMS

FORM No 1: NOTIFICATION OF INTENTION TO AWARD

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

FORMAT

1. For the attention of Tenderer's Authorized Representative
 1. Name: *[insert Authorized Representative's name]*
 1. Address: *[insert Authorized Representative's Address]*
 2. Telephone: *[insert Authorized Representative's telephone/fax numbers]*
 3. 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.]

4. Date of transmission: [email] on [date] (local time)

This Notification is sent by _____ (Name and designation) _____

5. Notification of Intention to Award
 1. Employer: _____ *[insert the name of the Employer]*
 1. Project: _____ *[insert name of project]*
 2. Contract title: _____ *[insert the name of the contract]*
 3. Country: _____ *[insert country where ITT is issued]*
 4. 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:

5. 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.

1. The successful tenderer
 1. Name of successful Tender _____
 2. Address of the successful Tender _____
 3. Contract price of the successful Tender Kenya Shillings _____ (in words)

_____)

2. 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.

1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

3. How to request a debriefing

1. DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time).
2. 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.
3. Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
 1. Attention: _____ *[insert full name of person, if applicable]*
- ii) Title/position: _____ *[insert title/position]*
 1. Agency: _____ *[insert name of Employer]*
 2. Email address: _____ *[insert email address]*
3. 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.
4. 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.
5. 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

1. Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, *[insert date]* (local time).
2. Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

1. Attention:_____ *[insert full name of person, if applicable]*
1. Title/position:_____ *[insert title/position]*
2. Agency:_____ *[insert name of Employer]*
3. Email address:_____ *[insert email address]*
4. 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.
5. 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 or email complaints@ppra.go.ke.

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

6. There are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all of the information required to support your complaint.

5. Standstill Period

1. DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).
2. The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
3. 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 2: NOTIFICATION OF AWARD - LETTER OF ACCEPTANCE

[letterhead paper of the Employer]

_____ *[date]*

To _____ *[name and address of the Contractor]*

This is to notify you that your Tender dated _____ *[date]* for execution of the _____ *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount _____ *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by _____ *(name of Employer)*.

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

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Employer: _____

Attachment: *Contract Agreement*: _____

NOTIFICATION OF AWARD - LETTER OF ACCEPTANCE

[use letterhead 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 3 - 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:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. 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.
 1. the Letter of Acceptance
 2. the Letter of Tender
 3. the Addenda Nos. _____ (if any)
 4. Special Conditions of Contract
 5. General Conditions of Contract
 6. the Specification (including Schedule of Requirements and Technical Specifications)
 7. the completed Schedules (including Price Schedules)
 8. any other document listed in GCC as forming part of the Contract
3. 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]*

[Guarantor letterhead]

Beneficiary: _____ [insert name and Address of

Employer] **Date:** _____ [Insert date of issue]

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

1. We have been informed that _____ (hereinafter called "the Contractor") has entered into Contract No. _____ dated _____ with (name of Employer) _____ (the Employer as the Beneficiary), for the execution of _____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the Day of, 2.....², and any demand for payment under it must be received by us at the office indicated above on or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

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

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

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (Procuring Entity)

Request for review of the decision of the..... (Name of the Procuring Entity ofdated the...day of20.....in the matter of Tender No.....of20.... for(Tender description).

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
- 2.

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

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on.....day of20.....

SIGNED

Board Secretary

