

REPUBLIC OF KENYA



GOVERNMENT OF MAKUENI COUNTY



MAKUENI COUNTY PUBLIC SERVICE BOARD

P.O. BOX 49-90300

MAKUENI

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**TENDER DOCUMENT FOR
PROVISION OF SECURITY SERVICES**

OPEN NATIONAL TENDER

TENDER NO: GMC/MCPSB/T/1673087/2024-2025

TENDER CLOSING DATE: 15TH NOVEMBER 2024

TIME: 10.00AM (EAST AFRICA TIME)

SECTION I INVITATION TO TENDER

DATE: 8th November, 2024.

**PROCURING ENTITY: MAKUENI COUNTY PUBLIC SERVICE BOARD
GOVERNMENT OF MAKUENI COUNTY
P.O BOX 49 – 90300 MAKUENI**

TENDER NUMBER: GMC/MCPSB/T/1673087/2024-2025

DESCRIPTION: PROVISION OF SECURITY SERVICES

The County Government of Makueni invites sealed tenders for the **PROVISION OF SECURITY SERVICES** for the County Government of Makueni.

1. Tendering will be conducted under Open Tender method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
2. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours. *[0800 to 1700 hours]* at the address given below.
3. A Completed tender document shall be submitted online through IFMIS www.supplier.treasury.go.ke. Thereafter tenders will be opened immediately in the presence of the bidders or their representatives who choose to attend.
4. Tender documents may be viewed and downloaded for free from the website www.makueni.go.ke or www.supplier.treasury.go.ke or www.tenders.go.ke
5. Tender Security shall be KSH. 10,000.00 FROM FINANCIAL INSTITUTIONS RECOGNIZED BY CENTRAL BANK OR INSURANCE COMPANIES APPROVED BY PPRA VALID FOR A PERIOD OF 170 DAYS FROM THE DATE OF TENDER OPENING OR Dully filled tender-Securing Declaration form for AGPO Suppliers
6. The Tenderer MUST serialize all pages of the tender documents submitted.
7. Completed hard copy tenders must be submitted on or before **15/11/2024** at 10.00 AM.
8. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later.
9. Late tenders will be rejected.

**THE SECRETARY/CEO,
MAKUENI COUNTY PUBLIC SERVICE BOARD
GOVERNMENT OF MAKUENI COUNTY**

PART 1 - TENDERING PROCEDURES

SECTION I -INSTRUCTIONS TO TENDERERS

A. General

1 Scope of Tender

1.1 This tendering document is for the delivery of Non-Consulting Services, as specified in Section V, Procuring Entity's Requirements. The name, identification and number of this tender are specified in the TDS.

2 Throughout this tendering document:

2.1 The terms:

- a) 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;
- b) if the contexts or esquires, "singular" means "plural" and vice versa; and
- c) "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Procuring Entity. It excludes the Procuring Entity's official public holidays.

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

3. Fraud and Corruption

3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015 (the Act), 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.

3.2 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.

3.3 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.

- 3.4 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 this tender. 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.

4. Eligible Tenderers

- 4.1 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 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. Members of a joint venture may not also make an individual tender, be a sub contract or in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the TDS.
- 4.2 Public Officers, of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse in which they have a substantial or controlling interest shall not be eligible to tender or be awarded contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 4.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
 - b Receives or has received any direct or indirect subsidy from another Tenderer; or
 - c has the same legal representative as another Tenderer; or
 - d 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
 - e 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 Non-Consulting Services that are the subject of the Tender; or
 - g 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
 - h would be providing goods, works, or non-consulting 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
 - i 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 in directly 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 conflicts teeming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the procurement process and execution of the Contract.
- 4.4 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.
- 4.5 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4 .9.
- 4.6 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 pre-qualified 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 PPRA Website www.ppra.go.ke

- 4.7 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.
- 4.8 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 take 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.
- 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.
- 4.10 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".
- 4.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not sub contract to foreign firms more than 10 percent of the contract price, excluding provisional sums.
- 4.12 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 4.13 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.
- 4.14 A Kenyan tenderer shall be eligible to tender if it provides evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate is sued by the Kenya Revenue Authority.

5 Qualification of the Tenderer

- 5.1 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.
- 5.2 In the event that pre-qualification of Tenderers has been undertaken as stated in ITT 18.3, the provisions on qualifications of the Section III, Evaluation and Qualification Criteria shall not apply.

B. Contents of Tendering Document

6 Sections of Tendering Document

6.1 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 10.

PART 1: Tendering Procedures

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

PART 2: Procuring Entity's Requirements

- v) Section V-Procuring Entity's Requirements

PART 3: Contract

- vi) Section VI - General Conditions of Contract (GCC)
- vii) Section VII - Special Conditions of Contract (SCC)
- viii) Section VIII - Contract Forms

6.2 The Invitation to Tender (ITT) notice or the notice to pre-qualify Tenderers, as the case may be, issued by the Procuring Entity is not part of this tendering document.

6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

1. Site Visit

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

8 Pre-Tender Meeting

8.1 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 pre-tender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pre-tender 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.

8.2 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.

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

8.4 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the service 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 ITT10 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.

9 Clarification of Tender Documents

9.1 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 Service 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 webpage 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 8.4.

10 Amendment of Tender Documents

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

10.2 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 8.4.

10.3 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

11 Cost of Tendering

11.1 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.

12 Language of Tender

12.1 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 may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

13 Documents Comprising the Tender

13.1 The Tender shall comprise the following:

- a Form of Tender prepared in accordance with ITT 14;
- b Schedules: priced Activity Schedule completed in accordance with ITT 14 and ITT 16;
- c Tender Security or Tender-Securing Declaration in accordance with ITT 21.1;
- d Alternative Tender: if permissible in accordance with ITT 15;
- e Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
- f Qualifications: documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
- g Tenderer's Eligibility: documentary evidence in accordance with ITT 19 establishing the

Tenderer's eligibility to Tender;

- h Conformity: documentary evidence in accordance with ITT 18, that the Services conform to the tendering document; and
- i Any other document required in the TDS.

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

13.2 In addition to the requirements under ITT 13.1, 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.

13.3 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.

14 Form of Tender and Activity Schedule

14.1 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 22.3. All blank spaces shall be filled in with the information requested.

14.2 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.

15 Alternative Tenders

15.1 Unless otherwise indicated in the TDS, alternative Tenders shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the Best Evaluated Tender shall be considered by the Procuring Entity.

15.2 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.

15.3 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.

16. Tender Prices and Discounts

16.1 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.

16.2 All lots (contracts) and items must be listed and priced separately in the Activity Schedule(s).

16.3 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.

16.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender in accordance with ITT 16.1.

16.5 The Tenderer shall fill in rates and prices for all items of the Services described in the 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.

16.6 All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included

in the total Tender price submitted by the Tenderer.

16.7 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.

16.8 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.

17 Currencies of Tender and Payment

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

18 Documents Establishing Conformity of Services

18.1 To establish the conformity of the Non-Consulting 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.

- 18.2 Standards for provision of the Non-Consulting 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.
- 18.3 Tender 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 thereby help to prevent any corrupt influence in relation to the procurement processor contract management.
- 18.4 The purpose of the information described in ITT 18.3 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.
- 18.4 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 ITT18.3. 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.
- 18.6 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.
- 18.7 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.
- 18.8 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:
- i) If the procurement process is still on going, the tenderer will be disqualified from the procurement process,
 - ii) if the contract has been awarded to that tenderer, the contract award will be set aside, pending the outcome of (iii),

- iii) The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

18.9 If a tenderer submits information pursuant to these requirements that is in complete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 18.9 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 or which was not attributable to the intentional act, negligence or recklessness of the tenderer.

19 Documents Establishing the Eligibility and Qualifications of the Tenderer

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

19.2 The documentary evidence of the Tenderer's qualification stopper form 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.

19.3 All Tenderers shall provide in Section IV, Tendering Forms, a preliminary description of the proposed methodology, work plan and schedule.

19.4 In the event that pre-qualification of Tenderers has been undertaken, only Tenders from prequalified Tenderers shall be considered for award of Contract. These qualified Tenderers should submit with their Tenders any information updating their original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission.

19.5 If pre-qualification has not taken place before Tendering, the qualification criteria for the Tenderers are specified- in Section III, Evaluation and Qualification Criteria.

20 Period of Validity of Tenders

20.1 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 24.1). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

20.2 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 ITT20, 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.

21 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.

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

- 21.3 If a Tender Security is specified pursuant to ITT 21.1, from a reputable source, and an eligible country and shall be in any of the following forms at the Tenderer's option:
- i) cash;
 - ii) a bank guarantee;
 - iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
 - iv) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,
- 21.4 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.
- 21.5 If a Tender Security is specified pursuant to ITT 21.1, 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. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bidder declines to extend tender validity period.
- 21.6 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.
- 21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:
- a. If a Tenderer withdraws Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension there to provide by the Tenderer; or
 - b. if the successful Tenderer fails to:
 - c. sign the Contract in accordance with ITT 46; or
 - d. Furnish a performance security in accordance with ITT 47.
- 21.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debar the Tenderer from participating in public procurement as provided in the law.
- 21.9 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 13.2.
- 21.10 A tenderer shall not issue a tender security to guarantee itself.

22 Format and Signing of Tender

- 22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13, 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.

22.2 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.

22.3 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.

22.4 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.

22.5 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

23 Sealing and Marking of Tenders

- 23.1 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:
- a. in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT13; and
 - b. in an envelope or package or container marked "COPIES", all required copies of the Tender; and
 - c. if alternative Tenders are permitted in accordance with ITT15, and if relevant:
 - i. in an envelope or package or container marked "ORIGINAL-ALTERNATIVE TENDER", the alternative Tender; and
 - ii. in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) Bear the name and address of the Procuring Entity.
- b) Bear the name and address of the Tenderer; and
- c) Bear the name and Reference number of the Tender.

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

24 Deadline for Submission of Tenders

24.1 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.

24.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT9, 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.

25 Late Tenders

25.1 The Procuring Entity shall not consider any Tender that arrives after the dead line for submission of Tenders, in accordance with ITT 24. 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.

26 Withdrawal, Substitution and Modification of Tenders

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by a n 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:

- a) 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
- b) Received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.

26.2 Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.

26.3 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.

27 Tender Opening

27.1 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.

27.2 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.

- 27.3 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.
- 27.4 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.
- 27.5 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.
- 27.6 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.
- 27.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT25.1).
- 27.8 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:
- a) The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 - b) The Tender Price, per lot (contract) if applicable, including any discounts; and
 - c) any alternative Tenders;
 - d) The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.
 - e) Number of pages of each tender document submitted
- 27.9 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 tender opening register shall be distributed to Tenderer upon request.

E. Evaluation and Comparison of Tenders

28 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 42.
- 28.2 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.

28.3 Notwithstanding ITT 28.2, 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.

29 Clarification of Tenders

29.1 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 break downs 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 ITT32.

29.2 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.

30 Deviations, Reservations, and Omissions

30.1 During the evaluation of Tenders, the following definitions apply:

- a) "Deviation" is a departure from the requirements specified in the tendering document;
- b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and
- c) "Omission" is the failure to submit part or all of the information or documentation required in the tendering document.

31 Determination of Responsiveness

31.1 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.

31.2 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:

- a) If accepted, would:
 - i. affect in any substantial way the scope, quality, or performance of the Non-Consulting Services specified in the Contract; or
 - ii. limit in any substantial way, inconsistent with the tendering document, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

31.3 The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 18 and ITT 19, 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.

31.4 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.

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

31.6 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.

31.7 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial 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.

32 Arithmetical Errors

32.1 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.

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

a) 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.

b) 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

c) If there is a discrepancy between words and figures, the amount in words shall prevail

32.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

33 Conversion to Single Currency

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

34 Margin of Preference and Reservations

34.1 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.

34.2 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.

35 Evaluation of Tenders

35.1 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 Best Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:

- a) Substantially responsive to the tendering document; and
- b) The lowest evaluated cost.

35.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender cost by adjusting the Tender price as follows:

- a) Price adjustment due to discounts offered in accordance with ITT 16.4;
- b) price adjustment due to quantifiable non material non-conformities in accordance with ITT 31.3;
- c) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33; and
- d) any additional evaluation factors specified in the TDS and Section III, Evaluation and Qualification Criteria.

35.3 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.

35.4 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. For one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT

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

36 Comparison of Tenders

36.1 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.

37 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.
- 37.2 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.
- 37.3 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

- 37.4 An abnormally high 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.
- 37.5 In case of an abnormally high price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:
- i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.
 - ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case maybe.
- 37.6 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.

38 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.
- 38.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may as appropriate:

- a) Accept the Tender; or
- b) require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding 10% of the Contract Price; or
- c) agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works; or
- d) Reject the Tender.

39 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.

39.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 18. 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.

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

40 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 there by 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

43 Award Criteria

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

42 Notice of Intention to enter in to a Contract

42.1 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 into a Contract/Notification of a ward to all tenderers which shall contain, at a minimum, the following information:

- a) The name and address of the Tenderer submitting the successful tender;
- b) The Contract price of the successful tender;
- c) 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;

- d) the expiry date of the Stand still Period; and
- e) instructions on how to request a debriefing and/or submit a complaint during the stand still period;

43 Stand still Period

43.1 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.

43.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter in to a Contract with the successful Tenderer.

44 Debriefing by the Procuring Entity

44.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 42, 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.

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

45 Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 43.1, 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.

46 Signing of Contract

46.1 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.

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

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

47 Performance Security

47.1 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 VIII, 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.

47.2 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 Best Evaluated Tender.

48 Publication of Procurement Contract

48.1 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:

- a) Name and address of the Procuring Entity;
- b) Name and reference number of the contract being awarded, a summary of its scope and the selection method used;
- c) The name of the successful Tenderer, the final total contract price, the contract duration.
- d) Dates of signature, commencement and completion of contract;
- e) Names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

49 Adjudicator

49.1 The Procuring Entity proposes the person named in the TDS to be appointed as adjudicator or under the Contract, at an hourly fee specified in the TDS, plus reimbursable expenses. If the Tenderer disagrees with this Tender, 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.

50 Procurement Related Complaints and Administrative Review

50.1 The procedures for making a Procurement-related Complaint are as specified in the TDS.

A request for administrative review shall be made in the form provided under contract form

APPENDIX TO INSTRUCTIONS TO TENDERERS

The following information for procurement of security guarding services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

SECTION II - TENDER DATA SHEET (TDS)

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

| ITT Reference | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS |
|---------------|---|
| | A. General |
| ITT 1.1 | <p>The reference number of the <u>Request for Tenders (ITT)</u> is : GMC/MCPSB/T/1673087/2024-2025</p> <p>The Procuring Entity is: MAKUENI COUNTY PUBLIC SERVICE BOARD</p> <p>The name of the ITT is: PROVISION OF SECURITY SERVICES</p> <p>The number and identification of lots (contracts) comprising this ITT is: NOT APPLICABLE</p> |
| ITT 2.1(a) | <p>Electronic –Procurement System</p> <p>The Procuring Entity shall use the following electronic-procurement system to manage this Tendering process:</p> <p>IFMIS-PROCUREMENT PORTAL The link: www.supplier.treasury.go.ke</p> <p>The electronic-procurement system shall be used to manage the following aspects of the Tendering process:</p> <p>ONLINE VIA NEGOTIATION NUMBER: 1673087/2024-2025</p> |
| ITT 2.2 | The Intended Completion Date is WITHIN A PERIOD OF TWO YEARS AFTER THE AWARD . |
| ITT 3.3 | <p>Information that any unfair competitive advantage over competing firms is as follow:</p> <p>NOT APPLICABLE</p> |
| ITT 3.4 | The firms that provided consulting services NOT APPLICABLE |
| ITT 4.1 | Maximum number of members in the Joint Venture (JV) shall be: NONE |
| | B. Contents of Tendering Document |
| ITT 8.1 | <p>(a) A pre-tender conference WILL NOT BE HELD</p> <p>(b) A pre-arranged pretender visit of the site of the works visit will WILL NOT BE HELD</p> |
| ITT 8.2 | The questions in writing, to reach the Procuring Entity not later than __N/A |

| | |
|---------------|---|
| ITT Reference | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS |
| ITT 8.4 | Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works shall be published on the website NOT APPLICABLE |
| ITT 9.1 | <p>i) The Tenderer will submit any request for clarifications in writing at the Address WWW.MAKUENI.GO.KE to reach the Procuring Entity not later than __ 13th NOVEMBER 2024</p> <p>ii) The Procuring Entity shall publish its response at the website WWW.MAKUENI.GO.KE</p> <p>The Procuring Entity shall also promptly publish response at the website WWW.MAKUENI.GO.KE</p> |
| | C. Preparation of Tenders |
| ITT 13.1 (i) | <p>The Tenderer shall submit the following additional documents in its Tender: AS PER EVALUATION CRITERIA</p> <p>Other documents required are <u>ACCEPTANCE LETTER.</u></p> |
| ITT 15.1 | Alternative Tenders SHALL NOT be considered. |
| ITT 15.2 | Alternative times for completion SHALL NOT be permitted. |
| ITT 15.3 | Alternative technical solutions shall be permitted for the following parts of the Services: NOT APPLICABLE |
| ITT 16.7 | The prices quoted by the Tenderer SHALL be subject to adjustment during the performance of the Contract. BASED ON THE LABOUR MINIMUM WAGE INCREMENT. |
| ITT 20.1 | The Tender validity period shall be 170 days. |
| ITT 21.1 | <p>A Tender Security SHALL BE required.</p> <p>A Tender-Securing Declaration SHALL BE required.</p> <p>If a Tender Security shall be required, the amount and currency of the Tender Security shall be KSH. 10,000.00 FROM FINANCIAL INSTITUTIONS RECOGNIZED BY CENTRAL BANK OR INSURANCE COMPANIES APPROVED BY PPRA VALID FOR A PERIOD OF 170 DAYS FROM THE DATE OF TENDER OPENING OR Dully filled tender-Securing Declaration form for AGPO Suppliers</p> |
| ITT 21.3 (a) | The Contract price shall be adjusted by GOVERNMENT LABOUR NOTICE ON INCREMENT OF WAGES. |
| ITT 22.1 | In addition to the original of the Tender, the number of copies is: NONE |
| ITT 22.3 | The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: A LETTER OF POWER OF ATTORNEY SIGNED BY COMMISSIONER OF OATHS VALID WITHIN THE PERIOD, ADDRESSED TO THE CHIEF EXECUTIVE OFFICER: MAKUENI COUNTY PUBLIC SERVICE BOARD. |

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| ITT Reference | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS |
| | D. Submission and Opening of Tenders |
| ITT 24.1 | <p>For Tender submission purposes only, the Procuring Entity's address is:</p> <ol style="list-style-type: none"> 1. Attention: The Secretary/CEO, Makueni County Public Service Board 2. Postal Address: P.O BOX 49 – 90300 3. Physical Address: Along Wote-Makindu road, Opposite Wote Technical Institute. 4. Telephone: 0202026751 5. Email address: cpsb@makueni.go.ke <p style="text-align: center;">SUBMISSION AND OPENING OF TENDERS</p> |
| ITT 24.1 | <p>The deadline for Tender submission is: Date: 15TH NOVEMBER 2024 Time: 10:00AM</p> <p>tenderers "shall" submit their Tenders electronically through IFMIS www.supplier.treasury.go.ke</p> |
| ITT 27.1 | <p>The Tender opening shall take place ONLINE Date: 15TH NOVEMBER 2024 Time: 10:00 a.m The electronic Tender opening procedures shall be: ONLINE</p> |
| ITT 27.1 | <p>The electronic Tender opening procedures shall be: AS PER IFMIS NEGOTIATION NO-1673087/2024-2025</p> |
| ITT 27.6 | <p>The Form of Tender and priced Activity Schedule shall be initialed by ALL representatives of the Procuring Entity conducting Tender opening. NOT APPLICABLE</p> |
| E. Evaluation and Comparison of Tenders | |
| ITT 31.7 | <p>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 NOT APPLICABLE price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.</p> |
| 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: KSH. NOT APPLICABLE</p> |
| ITT 34.1 | <p>Margin of preference allowed or not allowed N/A....</p> |
| ITT 34.2 | <p>The invitation to tender is extended to the following group that qualify for Reservations _____</p> |

| | |
|---------------|---|
| ITT Reference | PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS |
| | _NOT APPLICABLE _____ _____ |
| ITT 35.2 (d) | Additional evaluation factors shall be _AS PER EVALUATION CRITERIA |
| ITT 35.4 | Tenderers shall be not allowed 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 NOT APPLICABLE The hourly fee for this proposed Adjudicator shall be NOT APPLICABLE. The biographical data of the proposed Adjudicator is as follows: NOT APPLICABLE. |
| 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> <ol style="list-style-type: none"> 1. The Secretary/CEO, Makueni County Public Service Board 2. Postal Address: P.O BOX 49 – 90300 3. Physical Address: Along Wote-Makindu road, Opposite Wote Technical Institute. 4. Telephone: 0202026751 5. Email address: cpsb@makueni.go.ke <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <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

1. General Provision

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

- a) For construction turnover or financial data required for each year-Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year are to be converted) was originally established.
- b) Value of single contract-Exchange rate prevailing on the date of the contract signature.
- c) Exchange rates shall be taken from the publicly available source identified in the ITT. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

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

1.3 Evaluation and contract award Criteria

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria,(ii)has been determined to be substantially responsive to the Tender Documents, and(iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

2 Preliminary examination for Determination of Responsiveness

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

PRELIMINARY EVALUATION

| No. | Requirements | Yes /No |
|-----|---|---------|
| 1. | 1. Copy of Business Incorporation/ Registration Certificate | |
| 2. | 2. Copy of Valid Tax Compliance Certificate | |
| 3. | 3. Duly filled, signed and stamped Confidential Business Questionnaire Form | |

| | | |
|-----|---|--|
| 4. | 4.Attach Copies of CR12 and ID/IDs or Passport of Directors | |
| 5. | 5.Duly filled, signed and stamped disclosure of interest form | |
| 6. | 6.Duly filled, signed and stamped Certificate of independent tender determination | |
| 7. | 7.Duly filled, signed and stamped Self-declaration form (SD 1) | |
| 8. | 8.Duly filled, signed and stamped Self-declaration form (SD 2) | |
| 9. | 9. Duly filled, signed and stamped price schedule | |
| 10. | 10.Copy of Valid business permit | |
| 11. | 11.Declaration and Commitment to the Code of Ethics | |
| 12. | 12. Dully filled, signed and stamped Form of Tender | |
| 13. | 13.Attach Bid Bond of Kshs 10,000.00.00 (Kenya Shillings Ten Thousand Only) valid for 170 days from tender closing date OR Dully filled tender-Securing Declaration form for AGPO Suppliers | |
| 14. | 14.Tender document MUST be serialized/Paginated. | |
| 15. | 15.Evidence that the firm is NHIF compliant. (Provide compliance certificate issued by NHIF valid as at the Tender Opening Date). Attach proof of payment for the last three months (August 2024, September 2024 and October 2024). Due diligence will be conducted to ensure that the firm is compliant with the Government of Kenya labour laws in respect to minimum wage | |
| 16. | 16.Evidence that the firm is NSSF compliant (Provide compliance certificate issued by NSSF valid as at the Tender Opening Date). Attach proof of payment for the last three months (August 2024, September 2024 and October 2024). | |
| 17. | 17.Attach evidence of valid insurance cover for; Work Injury Benefits Insurance Policy | |
| 18. | 18. Duly filled, signed and stamped Certificate of tenderer's visit to site | |
| 19 | 19. No documents should be attached in form of google link | |

At this stage the tenderers submission will either be responsive or non- responsive. The non-responsive submission will be limited from the entire process and will not be considered further.

STAGE 2: TECHNICAL EVALUATION

This section (Technical Evaluation) will be marked out of 70 marks and will determine the technical score (TS)

| S/NO | DESCRIPTION CRITERIA | MAX SCORE |
|------|---|-----------|
| 1. | <p>1.Evidence of Guard force of not less than 30 Guards.</p> <p>Attach certified copies of</p> <p>Master payroll for more than 30 Guards. (10 marks)</p> <p>Master payroll for more than 15 Guards but less than 30 Guards. 5 marks</p> <p>Master payroll for Less than 15 Guards (0 marks)</p> <p>Not attached (0 marks)</p> | 10MARKS |
| 2. | <p>2.Provide copies of five (5) contracts or LSO's within the last three years, (5mks for each evidence)</p> | 25 MARKS |
| 3. | <p>3.The qualifications of supervisors to be deployed indicating the minimum academic qualification and experience.</p> <p>1. Higher Diploma and above (10mks) 2. Diploma Certificate - 5mk 3. KCSE Certificate (2 mk)</p> | 10MARKS |
| 4. | <p>4.Audited Accounts for last two (2) years</p> <p>FROM 2022 and 2023</p> <p>Each year 5Marks</p> | 10 MARKS |
| 5. | <p>5.Provide evidence of at least 5 Security Guards with relevant (Attach CVs)</p> <p>Experience – 1 Mk for each.</p> | 5 MARKS |
| 6. | <p>6.Provide evidence of Training of staff in fire safety skills of at least five (05 staff) 2 Marks for each.</p> <p>Attach certificates of training</p> | 10 MARKS |

- 3 Bidders scoring 70% of 49 marks and above shall be declared technically responsive and qualify for financial evaluation.
- 4 FINANCIAL EVALUATION CRITERIA
- 5 The bidder who quotes the lowest tender sum after passing in both preliminary and technical evaluation stages shall be awarded the tender

SECTION III – GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

- a) The "contract" means the agreement entered into between the Public Procurement Authority and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) "The services" means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the GOVERNMENT OF MAKUENI COUNTY under the Contract.
- d) "The GOVERNMENT OF MAKUENI COUNTY" means the organization sourcing for the services under this Contract.
- e) "The contractor" means the individual or firm providing the services under this Contract.
- f) "GCC" means general conditions of contract contained in this section
- g) "SCC" means the special conditions of contract
- h) "Days" are calendar days
- i) "Months" are calendar months.
- j) "Equipment" is the Contractor 's machinery and vehicles brought temporarily to the Site for the execution of the Services.
- k) "Site" means the place or places where the Services are to be carried out.
- l) "GOVERNMENT OF MAKUENI COUNTY's Representative" is the person appointed by the Employer and notified to the Contractor for the purpose of supervision of the Services.
- m) "Specification" means the Specification of the Services included in the Contract.
- n) "Agreement" means this Agreement made between Public Procurement Regulatory and the Contractor including the First and second schedules and to another document forming the Agreement
- o) "Effective Date" means the date that the services shall commence as stipulated in the Agreement.
- p) "Party" means either GOVERNMENT OF MAKUENI COUNTY or the Contractor.
- q) "Both Parties" means GOVERNMENT OF MAKUENI COUNTY and the Contractor.

- r) "Rates" means the costs and charges of the services the Contractor shall provide to GOVERNMENT OF MAKUENI COUNTY; as provided for in the Second Schedule of this Agreement;
- s) "Guarding Services" means the security guarding services, that will be provided to GOVERNMENT OF MAKUENI COUNTY by the security guarding Company pursuant to this Agreement and includes any additional or incidental services that may be requested by GOVERNMENT OF MAKUENI COUNTY from time to time.
- t) "Duties" means providing, performing, actioning, executing, engaging and or obliging to a moral legal duty to provide services by the Contractor to GOVERNMENT OF MAKUENI COUNTY as provided for in the First and Second Schedule of this Agreement; or any other assignment directed on request by signing of a Temporary Works Order.

3.2 Application

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

3.3 Standards

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

3.4 Patents Rights

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

3.5 Performance Security

- 3.5.1 Within twenty-eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procurement Regulatory Authority the performance security where applicable in the amount specified in Special Conditions of Contract.
- 3.5.2 The proceeds of the performance security shall be payable to the Procurement Regulatory Authority as compensation for any loss resulting from the Tenderer 's failure to complete its obligations under the Contract.
- 3.5.3 The performance security shall be denominated in the currency of the Contract or in a freely convertible currency acceptable to the Kenya Airports Authority and shall be in the form of:
 - a) Cash.
 - b) A bank guarantee.
 - c) Such insurance guarantee approved by the Authority.
 - d) Letter of credit
- 3.5.4 The performance security will be discharged by the Procurement Regulatory Authority and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer 's performance of obligations under the contract, including any warranty obligations under the contract.

3.6 Inspections and Tests

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

- 3.6.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the GOVERNMENT OF MAKUENI COUNTY.
- 3.6.3 Should any inspected or tested services fail to conform to the Specifications, the GOVERNMENT OF MAKUENI COUNTY may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Kenya Airports Authority.
- 3.6.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.7 Payment

- 3.7.1 Payment will be on a monthly basis on submission of an invoice after certification by an authorized officer of the Authority that services have been offered.

3.8 Prices

- 3.8.1 Prices charged by the contractor for services performed under the Contract shall not vary from the prices by the tenderer in its tender or in the Authority 's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

3.9 Assignment

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

3.10 Termination for Default

- 3.10.1 The Kenya Airports Authority may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:
- a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Public Procurement Regulatory Airports Authority.
 - b) if the tenderer fails to perform any other obligation(s) under the Contract.
 - c) if the tenderer, in the judgment of the GOVERNMENT OF MAKUENI COUNTY has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

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

3.11 Termination of Insolvency

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

3.12 Termination for Inconvenience

- 3.12.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for

the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.12.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

3.13 Resolution of Disputes

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

3.13.2 If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.14 Governing Language

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

3.15 Force Majeure

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

3.16 Applicable Law.

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

3.17 Notices

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

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

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

4.1 These Special Conditions of contract shall apply in regard to this contract. Whenever there is a conflict between the General Conditions of Contract (GCC) and the Special Condition of Contract (SCC), the provision herein shall prevail and supersede over those in the General Conditions of Contract.

4.2 Contract Documents

The following documents shall constitute the Contract documents

- a) Agreement,
- b) General Conditions of Contract and Special Conditions of contract
- c) Technical Specifications,
- d) Price Schedule
- e) Letter of Award and Acceptance,
- f) Contractors Tender Document

4.3 Employer's Representative's Decisions

4.3.1 Except where otherwise specifically stated, the Employer 's Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

4.4 Instructions

4.4.1 The Contractor shall carry out all instructions of the GOVERNMENT OF MAKUENI COUNTY's Representative which are in accordance with the Contract.

4.4.2 All verbal instructions to the Contractor shall as soon as possible after such instructions have been made be confirmed in writing by the Contract Manager/ Representative.

4.5 Management Meetings

4.5.1 A Contract top management meeting shall be held quarterly and attended by the Employer 's Representative and the Contractor. Its business shall be to evaluate periodic performance of the work. The Employer 's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer 's Representative either at the top management meeting or after the management meeting and stated in writing to all who attend the meeting.

4.5.2 An informal meeting between the supervisor of the contract and GOVERNMENT OF MAKUENI COUNTY representative shall be held when deemed necessary. Any results from this meeting shall reflect on the monthly evaluation and performance assessment as per clause 7.

4.5.3 Communication between parties shall be effective only when in writing.

4.6 Duration of Contract

4.6.1 The resulting contract/Agreement would run for a period of One (1) year from the commencement date subject to annual renewals based on performance evaluation. The contract/agreement shall not be renewed if the contractor is determined through periodic evaluation to have performed poorly.

4.7 Termination

4.7.1 GOVERNMENT OF MAKUENI COUNTY may without prejudice to any other remedy accruing to it terminate this Agreement in writing in whole or in part if:

a) By Breach of Contract

- i). The Contractor frequently fails to provide services of acceptable standards set by GOVERNMENT OF MAKUENI COUNTY in the performance of this Agreement and
- ii). The Contractor fails to perform any other obligation under this Agreement.

b) By Agreement

Either party may terminate the Agreement by giving to the other party three (3) months notice in writing or payment of three (3) months to offset fees and charges in lieu of such notice

4.7.2 On termination of this Agreement, whosoever terminated, the Contractor shall be permitted to remove all its equipment which may have been placed by the Contractor upon the employer 's premises.

4.8 Confidentiality

4.8.1 The Contractor, its Cleaning Officers, servants and agents shall not at any time during or after termination of this Agreement divulge or allow to be divulged to any person or third party any information relating to the business or affairs of GOVERNMENT OF MAKUENI COUNTY.

4.9 Assignment

4.9.1 The Contractor shall not assign or sub-contract any of its rights or duties under his Agreement

4.10 Sub Contract

4.10.1 The contract shall not be sub-contracted under this agreement.

4.11 Payment Terms

4.11.1 The contractor will promptly be paid upon receipt of certified invoices confirming that the services have been delivered in accordance with the contract.

4.12 Staff Identification

4.12.1 The contractor shall provide uniforms subject to clause 2.22 (3) (f) and name tags which shall be worn all the time. The contractor shall provide to GOVERNMENT OF MAKUENI COUNTY a list of staff and the copies of their National Identity Cards and Certificates of Good Conduct. Where there are changes in staffing GOVERNMENT OF MAKUENI COUNTY should be notified prior to deployment of the new staff; and must comply with the terms and conditions stipulated. All staff to be deployed shall also be issued with GOVERNMENT OF MAKUENI COUNTY Passes in line with the security requirements

4.13 Performance Security

4.13.1 The Contractor shall before be executing this agreement furnish GOVERNMENT OF MAKUENI COUNTY with a Performance security whose value shall be equivalent to Ten per cent (10%) of the annual Contract Value. The performance security will have a validity of one year hence must be renewed one month before the expiry date for each year of the contract period.

4.14 Notice Addresses

4.14.1 Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the address of the relevant party or by facsimile transmission or by Email and shall be deemed to have been received by the addressee within Three (7) working days of posting or 48 hours

if sent by facsimile transmission or by electronic mail. Notices shall be served on weekdays and not during weekends and Public Holidays.

4.15 Tender Prices

4.15.1 The contract price will be fixed during the term of contract and not subject to variation on any account.

4.16 Insurance

4.16.1 The Contractor shall insure its personnel engaged in the performance of this Agreement against injury sustained by them in the course of carrying out their duties in pursuance hereof and unless such injury shall be due to the act of negligence or default of GOVERNMENT OF MAKUENI COUNTY, its servants or agents. The Contractor will indemnify GOVERNMENT OF MAKUENI COUNTY against all actions, claims and demands in respect of such injury.

4.16.2 The Contractor shall be required by GOVERNMENT OF MAKUENI COUNTY to avail the Policy of Insurance in respect thereof and proof of payment of current premium.

4.17 Liquidated Damages

4.17.1 If the contractor fails to provide any or all of the services within the period(s) specified in the contract, GOVERNMENT OF MAKUENI COUNTY shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to the contract sum of the undelivered services until actual delivery of those services are met. After this GOVERNMENT OF MAKUENI COUNTY may consider terminating the contract.

4.18 Statutory Requirements

4.18.1 It is important that the Contractor fully understands the statutory duties of the GOVERNMENT OF MAKUENI COUNTY because it will be incumbent upon the Contractor to carry out the Service in accordance with those statutory requirements on behalf of the GOVERNMENT OF MAKUENI COUNTY. Any penalties prescribed by law and any consequential costs resulting from the Contractor failing to carry out those statutory duties shall be paid by the Contractor.

4.19 Parking Charges

4.19.1 The successful contractors shall meet the cost of toll and parking charges and as well make arrangements for their staff transport and meals.

4.20 Tendering Notes

4.20.1 The Tenderer is required to check the number of pages and should any be found to be missing or in duplicate or the figure or writing indistinct, they must inform the GOVERNMENT OF MAKUENI COUNTY at once and have the same rectified.

4.20.2 Should the Tenderer be in doubt about the prices, meaning of any item, word or figure for any reason whatsoever or observe any apparent omission of words or figures, they must inform the GOVERNMENT OF MAKUENI COUNTY in order that the correct meaning may be decided upon before the date for submission of the Tender.

4.20.3 No liability whatsoever will be admitted nor is claim allowed in respect of errors in the Tenderer 's Tender due to mistakes which should have been rectified in the manner described above.

4.20.4 It is the sole responsibility of the tenderer to ensure all the documents submitted are well bounded and the GOVERNMENT OF MAKUENI COUNTY shall not take any responsibility or liability for any loss or misplacement of loose documents.

- 4.20.5 The Tenderer shall not alter or otherwise qualify the text of this Tender Document. Any alteration or qualification made without authority will be ignored and the text of the Tender Document as printed will be adhered to.

SECTION V – SCHEDULE OF REQUIREMENTS

5.1 GENERAL REQUIREMENTS

These only describe the basic requirements.

5.1.1 Introduction

The GOVERNMENT OF MAKUENI COUNTY (GOVERNMENT OF MAKUENI COUNTY) is established under Section 8 (1) of the Public Procurement and Disposal Act, 2015 and is charged with mandates which is enshrined both in the Constitution of Kenya 2010 and the Act of Parliament.

GOVERNMENT OF MAKUENI COUNTY (referred to as the client) intends to enter into a contract with the winning bidder (referred to as the Contractor) for provision of Security Guarding services under the following Service Level Agreement. GOVERNMENT OF MAKUENI COUNTY requires the services of reputed, well established and financially sound Security Guarding Service Provider having experience in providing Security services on contract basis

5.1.2 Background

The Government Of Makueni County Headquarter Offices Based In Wote Town Makueni

5.1.3 Contract Period

The Contract period shall be Two (2) Years - renewable annually subject to satisfactory performance, unless and until determined under the provisions of this Agreement as follows:

- a) The Contractor shall be expected to provide at least guards to serve at GOVERNMENT OF MAKUENI COUNTY head quarter offices at any given time to provide Day and Night security guarding services for 24 hours, seven (7) days a week (Monday to Sunday) throughout the contract period.
- b) The contract period shall commence as shall be specified. The contract for providing the aforesaid manpower is for a period of two (2) years from the date of effectiveness of the contract renewable in the second year subject to satisfactory performance in the first year. The GOVERNMENT OF MAKUENI COUNTY, however, reserves right to terminate this contract as a result of unsatisfactory performance at any time after giving notice to the selected Service Provider.

5.1.4 Security Guarding Sites requirements Day and Night

The stations and required number of guards will be communicated to the winning bidder quote per guard day and night.

- 5.1.5 Provision and Standard of Service
- 5.1.6 A high standard of security performance in the execution of their service is expected. Poor performance and substandard quality of service will be grounds for termination of the agreement.
- 5.1.7 The security will maintain an Occurrence Book. They should be able to provide all their guards with note books, pens or cards / form, where the supervisors will sign to certify their physical visits or change of guards, i.e. occurrence books and note any incidences during the execution of the services.
- 5.1.8 The Contractor shall provide services to the acceptable standards in the performance of the services. Poor performance shall be grounds for summary termination of the Agreement on notice by the Client.
- 5.1.9 Frequent and inexcusable delays by the Contractor in the performance of its obligations hereunder shall give rise to sanctions impositions of liquidated damages by the Client.
- 5.1.10 If at any time during the performance of this Agreement the Contractor encounters unfavorable conditions affecting provision of services, the Contractor shall immediately and without any delay notify the Client in writing of the Conditions, their cause duration of occurrence. As soon as practicable the Client shall evaluate the condition and seek to address any anomalies, and may at its sole discretion waive the Contractor's obligations.
- 5.1.11 The occurrence book will be the property of the GOVERNMENT OF MAKUENI COUNTY and shall be presented to security officer in charge of every site by 8.00am of each day.

5.2 Equipment

- 5.2.1 All guards must be fully equipped with the right tools of their trade as follows: -
- a) Motor Vehicles, Motor Bikes and Bicycles
 - b) Peak Caps/Berets
 - c) Whistles and Lanyards
 - d) Torches and batteries
 - e) Serviceable military boots
 - f) Great coat
 - g) Sweaters
 - h) Clean presentable uniforms (shirt and trousers) and tie where applicable and as required in Sec. 2.22
 - i) Clubs
 - j) Identification badges
 - k) Communication equipment (Radio / Phone)

5.3 Logistics

- The contractor shall make arrangements and be responsible at their own cost for the following: -
- a) General transport requirements for all its personnel to and from the premises.
 - b) Provision of communication equipment
 - c) Assignment Instructions for each post/Guard

5.4 Liability Contract

- 5.4.1 The Contractor shall be responsible for any want of proper care on its part in the selection / employment of employees put on and in charge of offering security and safety services to the Client.
- 5.4.2 The Contractor shall be responsible to the Client in the circumstances of any intentional wrongful act committed by the Contractor's Employees(s).
- 5.4.3 The Contractor shall be liable for any loss suffered by the Client caused by negligence of the Contractor or the Contractor's employees whilst in action within the course of their employment subject to the SCC.
- 5.4.4 The Contractor shall state willingness to take responsibility for such and also to take up a liability insurance cover for the loss.

5.5 Indemnity

- 5.5.1 The Contractor shall indemnify and keep indemnified The Client, its servants and agents against loss, of or damage, of property or bodily injury sustained by its servants or agents or any of them by reason of any act omission or neglect of Contractor its servants or agents whilst performing their duties under this Agreement AND against the dishonesty of its Security Guards whilst performing their duties hereunder AND THIS shall include subject to the SCC.
- 5.5.2 The Client agrees to indemnify and to hold the Contractor, its agents and employees not responsible for all claims, proceedings, damages, costs, expenses and losses arising as a result of Client's negligence.

5.6 Claims

- 5.6.1 Notice of all claims by the GOVERNMENT OF MAKUENI COUNTY or the Contractor in respect of any loss, damage or injury, shall be given in writing giving details of such loss, damage or injury of consequential or indirect loss within fifteen (15) days after the discovery of such damage, loss or injury.

5.7 Insurance

- 5.7.1 The Contractor shall insure its Security Guards / Officers engaged in the performance of guarding services at GOVERNMENT OF MAKUENI COUNTY against injury sustained by them in the course of carrying out their duties.
- 5.7.2 The Contractor shall if required by the Client avail the policy of Insurance in respect thereof and proof of payment of current premium.

5.8 Requirements to be met by Guards

- a) Age of the Guards: Aged between 21 and 50 years old
- b) Education: Form four leavers and above who are able to express themselves in English and Swahili fluently
- c) Vetting: The contractor shall have thorough knowledge of guards' background and must provide:
- d) Their Certificates of good conduct before the guards are posted.
- e) Their Certificates

5.9 Training

- 5.9.1 Guards shall have undergone training in primary security procedures, fire-fighting, and safety, first aid and customer service. Training on anti-terrorism and terrorism awareness is a must. Working knowledge of computers and PABX is added advantage.

5.10 Supervision

- 5.10.1 The guards shall be effectively supervised on a 24-hours basis by site contract manager or a qualified supervisor provided by the Contractor.
- 5.10.2 Provision of Supervisors, Site Manager/ Officer in Charge shall be at the bidders cost.

5.11 Incident Reporting

- 5.11.1 The Contractor shall have in place adequate systems for reporting any incidents. Incidents occurring in Client's premises shall be reported without delay to the Clients Head of security or his representative.
- 5.12 Communications
- 5.12.1 Contractor shall ensure own communication links (land line telephone, mobile phones, radios etc) to the main control room must be reliable and manned 24 hours. The client would provide necessary internal communication as above necessary.
- 5.12.2 Where Clients' telephone will be used to make external calls or mobile destinations, such calls must be officially recorded as will be specified. Bills for calls made on non-GOVERNMENT OF MAKUENI COUNTY business will not be honored.
- 5.13 Notice
- Any notice to be served on either of the party by the other shall be sent by prepaid recorded delivery or registered post to the address of the relevant party or by facsimile transmission or by electronic mail or by telex and shall be deemed to have been received by the addressee within Seven (7) days of posting or 48 hours if sent by facsimile transmission or by electronic mail or telex.
- 5.14 Waiver
- The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver to them or a right at any time subsequently to enforce all terms and conditions of this Agreement.
- 5.15 Sign Plates
- The Contractor shall at its own cost and subject to the prior approval thereof, provide sign plates indicating that the premises are being guarded by the contractor and that guard dogs in use are not a threat.

SECTION VI – DESCRIPTION OF SERVICES

6.1 Scope of Services

The services to be offered by the contractor shall include but not limited to:

- 6.1.1 Ensure that all the directives of the GOVERNMENT OF MAKUENI COUNTY affecting the security and safety of their property are carried out.
- 6.1.2 Any interference to the jurisdiction / perimeter protection of the premises to be identified and reported to the GOVERNMENT OF MAKUENI COUNTY immediately.
- 6.1.3 Shall deter the commission and omission of crimes by deploying well-trained and alert security guards in GOVERNMENT OF MAKUENI COUNTY premises.
- 6.1.4 All visitors and customers to GOVERNMENT OF MAKUENI COUNTY premises to be courteously received assisted and directed.
- 6.1.5 Detain any person committing or with reasonable cause is suspected to be in the act of committing a cognizable offence.
- 6.1.6 Attend fire emergency situation/fire prevention, detection and control. Shall prevent the occurrence of fires, explosions and other catastrophes by the close observation of the buildings, machinery, building plants, vehicles, electrical equipment and personnel to identify unsafe conditions, procedures or activities.
- 6.1.7 Communicate Security, protection and safety matters on telephone, radio or any other acceptable media to Supervisor and Head of Security.
- 6.1.8 Conduct and effect security deployment, routine check and patrols
- 6.1.9 Activate or engage back-up systems in cases of emergencies
- 6.1.10 Practice knowledge of first aid and evacuation drills on need basis
- 6.1.11 Use of radios and modern equipment like Close Circuit Televisions (CCTVs), photocopying machines etc
- 6.1.12 Ability to control industrial disputes/assembly control and riots.
- 6.1.13 Ability to summon police, fire brigade and ambulances in cases of emergencies.
- 6.1.14 Pay attention to all water, steam, gas and electrical installations to detect breakdown and wastage and to take immediate action necessary in the interest of safety and security.
- 6.1.15 Ensure that fire-fighting equipment remain in designated locations and are not interfered with. In addition, ensure that the right fire equipment is used to extinguish fire.
- 6.1.16 Record all vehicles visiting to premises and verify gate-passes / Identification Cards issued to visitors and customers
- 6.1.17 Implement the contractor's right to search employees, visitors and customers and their vehicles to ensure that no unauthorized property is taken from the premises without relevant authority or entry of suspicious equipment and materials.
- 6.1.18 Ensure that before any property is removed authorization is obtained from the relevant authorities.
- 6.1.19 Maintain a daily occurrence book and all security records should be made available to the Head of Security and Safety of GOVERNMENT OF MAKUENI COUNTY or his representative at any time.

6.1.20 Regulate movement and control of motor vehicles entering and leaving the premises and control parking of vehicles.

- 6.1.21 Regulating human traffic in GOVERNMENT OF MAKUENI COUNTY reception, entry points, lounge and customers' access respective services in an orderly manner without delay.
 - 6.1.22 Guard all GOVERNMENT OF MAKUENI COUNTY premises against terrorism by ensuring thorough access controls, screening and/or searching of personnel and vehicles using available and applicable tools and equipment's e.g. metal detectors, CCTV to detect and deal with suspicious characters.
 - 6.1.23 The bidder must prove existence of radio network with central command by producing a valid frequency license.
 - 6.1.24 The successful bidder shall be liable for any loss suffered by GOVERNMENT OF MAKUENI COUNTY as a result of the bidders' negligence.
 - 6.1.25 The successful bidder shall be able to send a quick response and backup crew to the client premises at a short notice as and when an emergency occurs, including alarm response at the contractors cost.
 - 6.1.26 Screening of persons entering Terminals II, General Aviation Terminal and into the
 - 6.1.27 Verifying the credentials of all user's tools and equipment entering into the premises
 - 6.1.28 Maintenance of all incidents in the Occurrence Books.
 - 6.1.29 Maintenance of effective surveillance with a view of detecting suspicious activities.
 - 6.1.30 Prevent unauthorized movements within GOVERNMENT OF MAKUENI COUNTY premises, access to controlled or restricted areas.
 - 6.1.31 Guarding and conducting security patrols in specified areas.
 - 6.1.32 To have guards who are computer literate at GOVERNMENT OF MAKUENI COUNTY
 - 6.1.33 Deploy elementary / basis anti-terrorism and customer care skills as as when required
 - 6.1.34 The bidder firm to demonstrate ability to deploy / install own guard monitoring system manual, semi or fully automated.
 - 6.1.35 All security officers and personnel will be subjected to an effective supervisory arrangement and procedures and GOVERNMENT OF MAKUENI COUNTY shall make periodical and impromptu check/visits.
 - 6.1.36 In the event of a loss, investigations must commence immediately by both parties in conjunction with the police and investigative reports sent to the GOVERNMENT OF MAKUENI COUNTY Headquarters for final decision.
- 6.2 Patrolling
- 6.2.1 Types of Patrol
 - a) Foot Patrols
 - b) Mobile/vehicle patrols
 - c) Surveillance
- 6.3 Areas and Personnel Deployment -Makueni County Public Services Board
- 6.4 Methods of Communication
- 6.4.1 Use of VHF (2way) Radio Communication (as applicable)
 - 6.4.2 Telephone (where provided)
 - 6.4.3 Whistle (when in danger or emergency)

6.5 Methods of Recording Patrols and Incidents

6.5.1 Details of patrols and incidents shall be recorded in a Register (Occurrence Book - OB), which shall be maintained at the specified manning areas. At a minimum, each record of patrol or incident shall include the following:

- a) Incident Entry Number (Register / OB No).
- b) Date and time of occurrence of incident or patrol.
- c) Nature of occurrence.
- d) Remarks and observations related to occurrence.
- e) Signature of security person/guard making the entry

6.6 Incident Reporting Procedure

6.6.1 On observing an incident, one shall immediately activate an alerting process as follows: i). Inform supervisor by Radio or Telephone
ii). Inform his/her other colleagues working with him/her at the point

6.6.2 On receipt of an alert, the supervisor shall:

- i). Deploy reinforcement and alert all Radio holders.
- ii). Report to their Control or Command Centre and Duty Supervisor
- iii). Report to GOVERNMENT OF MAKUENI COUNTY Corporate Security Office or any security person available.
- iv). Proceed to scene (where necessary), evaluate the situation and re-confirm to Supervisor including requests for GOVERNMENT OF MAKUENI COUNTY and Police intervention.
- v). Record all details of the incident in the Occurrence Book.
- vi). Make Incident Report to GOVERNMENT OF MAKUENI COUNTY within one 's working time (before handing over to incoming shift).

6.7 Duty Performance Record

6.7.1 The shift supervisor shall take over duties and record the same in the OB.

6.7.2 Visit each manning point at least four times per shift and record in the occurrence registers/OB at manning points (where applicable) as required by GOVERNMENT OF MAKUENI COUNTY Regulations.

6.8 Operational Contact Person

6.8.1 Head of Security and Safety shall be informed or contacted for any information related to day-to-day security operations.

6.9 Minimum Requirements for Security Guards

6.9.1 The contractor shall ensure all persons presented for security service at the airport meet the following minimum qualifications, which may be inspected from time to time.

- i). Form four level of Education and above
- ii). Valid Certificate of Police Clearance
- iii). Valid national Identification Document
- iv). Guards with security-oriented training highly recommended
- v). Past experience in provision of service to high-end and security conscious clients e.g. Embassies, Banks, airports etc)

6.9.2 The client may ensure contractors staff serving in the airport undertake basic in-house training programmes provided by GOVERNMENT OF MAKUENI COUNTY at a fee (to be paid for by the contractor) to enhance the capacity of guards to operate at Premises:

- a) General GOVERNMENT OF MAKUENI COUNTY Operations
- b) Business Security Awareness
- c) Safety Awareness

d) Customer Care

- e) Fire and Rescue
- f) First Aid techniques

6.10 Contract Performance Evaluations

6.10.1 There shall be three types of evaluations, namely:

- a) Daily Evaluations; - These shall be done by the Security and Safety Supervisors.
- b) Monthly Evaluations; - These shall be done by the Manager Security Services.
- c) Annual Evaluation; - These shall be done by the Manager Security Services

PRICE SCHEDULE FORM

PRICE SCHEDULE OF SERVICES

The service provider should indicate the cost that is necessary to meet the security guarding requirements of GOVERNMENT OF MAKUENI COUNTY.

The price quotation shall include all applicable taxes for purposes of the price schedule and shall adhere to itemized Description below upon contract execution.

Name of Tenderer;

Tender Number;

| No | Description | Unit Cost | Public Procurement Capacity Building Levy Order, 2023 which is 0.03% of the total cost before tax (Pursuant to PPRA Circular No.1 of 2024 | 16% VAT | TOTAL |
|----|--|-----------|---|---------|-------|
| 1. | Price of one guard per month (Day shift) | | | | |
| 2. | Price of one guard per month (night shift) | | | | |

NB

- i). In case of discrepancy between total price and the price stated on form of tender, the price on form of tender shall prevail.
- ii). The services will be rendered on 24 hrs basis for the entire contract period
- iii). Invoices must indicate the price build up on the cost of the Guard and 16% VAT as tendered above
- iv). The successful bidder shall enter into a 2 (year) year contract, renewable in the second year upon annual satisfactory review.
- v). Payments shall be made at the end of every Month within 30 days upon receipt of Invoice(s) or as shall be agreed.

Signature and Rubber Stamp of tenderer

SECTION IV - TENDERING FORMS

1 FORM OF TENDER

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

INSTRUCTIONS TO TENDERERS

- i) *All italicized text is to help the Tenderer in preparing this form.*
- ii) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.*

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

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

- a) **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with ITT9;
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT4;
- c) **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 ITT21;
- d) **Conformity:** We offer to provide the Non-Consulting Services in conformity with the tendering document of the following:*[insert a brief description of the Non-Consulting Services]*;
- e) **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]*

Option1, 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]*;

- f) **Discounts:** The discounts offered and the methodology for their application are:
- i) The discounts offered are: *[Specify in detail each discount offered.]*
- ii) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
- g) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 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;

- h) **Performance Security:** If our Tender is accepted, we commit to obtain a Performance Security in accordance with the tendering document;
- i) **One Tender Per Tenderer:** We are not submitting any other Tender(s) as an individual Tenderer, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of ITT4.3, other than alternative Tenders submitted in accordance with ITT14;
- j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA. Further, we are not ineligible under Kenya's official regulations or pursuant to a decision of the United Nations Security Council;
- k) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 4.6];*
- l) **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, r gratuity].*

| Name of Recipient | Address | Reason | Amount |
|-------------------|---------|--------|--------|
| | | | |
| | | | |
| | | | |
| | | | |

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

- a) *[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.
- m) **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;
- n) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and
- o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- p) **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.
- q) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from *(specify website)* during the procurement process and the execution of any resulting contract.
- r) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
 - i) Tenderer's Eligibility; Confidential Business Questionnaire—to establish we are not in any conflict to interest.
 - ii) Certificate of Independent Tender Determination—to declare that we completed the tender without colluding with other tenderers.

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

- iv) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

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

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

i) **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.

a) **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

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

Name in full _____ Age _____

Nationality _____ Country of Origin _____

Citizenship _____

c) **Partnership**, provide the following details.

| | Names of Partners | Nationality | Citizenship | % Shares owned |
|---|--------------------------|--------------------|--------------------|-----------------------|
| 1 | | | | |
| 2 | | | | |

| | | | | |
|---|--|--|--|--|
| | | | | |
| 3 | | | | |

d) **Registered Company**, provide the following details.

- i) Private or public Company _____
- ii) State the nominal and issued capital of the Company-
 Nominal Kenya Shillings (Equivalent)
 Issued Kenya Shillings (Equivalent)
- iii) Give details of Directors as follows.

| | Names of Director | Nationality | Citizenship | % Shares owned |
|---|--------------------------|--------------------|--------------------|-----------------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |

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

- i) Are there any person/persons in..... (*Name of Procuring Entity*) who has/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 | | | |

ii) **Conflict of interest disclosure**

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

| | 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 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)

ii) 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:
 - a) Has been requested to submit a Tender in response to this request for tenders;
 - b) 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, a s applicable]:
 - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details 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:
 - a) prices;
 - b) methods, factors or formulas used to calculate prices;
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) 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, which ever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name _____

Title _____

Date _____

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

iii) SELF-DECLARATION FORMS

FORM SD1

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

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

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 here in above is true to the best of my knowledge information and belief.

.....

.....

..... (Title)

(Signature)

(Date)

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I,
(person) on behalf of **(Name of the
Business/ Company/Firm)**

..... declare that I
have read and fully understood the contents of the Public Procurement & Asset
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.....

.....

CERTIFICATE OF TENDERER'S VISIT TO SITE

This is to certify that,..... (Name of Tenderer or his representative) of the firm of, (Name of Firm Tendering) In the company of,..... (Name of Clients representative conducting the visit)

Visited the site in connection with Tender for PROVISION FOR SECURITY GUARDING SERVICES AT GOVERNMENT OF MAKUENI COUNTY PUBLIC SERVICE BOARD OFFICE PREMISES.

Having studied the tender documents, I carefully examined the site.

1. I have made myself familiar with all the local conditions likely to influence the services and cost thereof.
2. I further certify that I am satisfied with the description of the work and the explanations given by the Client's representative and that I understand perfectly the work to be done as specified and implied in the execution of the contract.

Signed (Tenderer or his representative)

Date.....

Signed (Signature of GOVERNMENT OF MAKUENI COUNTY representative)

Date.....

