

Vision

Kenya becomes
a top ten global
ICT hub.

Mission

To rapidly
and innovatively
transform Kenya
through promotion
of ICT for
socio-economic
enrichment
of our society

REPUBLIC OF KENYA

OPEN NATIONAL TENDER FOR REHABILITATION OF ISIOLO – MOYALE FIBER OPTIC BACKBONE INFRASTRUCTURE

TENDER REF NO:
ICTA/OT/04/2022-2023

ICT AUTHORITY
12TH FLOOR, TELEPOSTA
TOWERS
P.O. BOX 27150-00100
NAIROBI
www.icta.go.ke
procurement@ict.go.ke

ISSUING DATE: 14TH SEPTEMBER, 2022

**CLOSING DATE: 26th SEPTEMBER, 2022 AT 10:00
A.M**

TABLE OF CONTENTS

PREFACE.....	vi
APPENDIX TO THE PREFACE.....	viii
GUIDELINES FOR PREPARATION OF TENDER DOCUMENTS.....	viii
1. GENERAL.....	viii
2. PART 1 - TENDERING PROCEDURES.....	ix
3. PART 2 - PROCUREMENT ENTITY'S REQUIREMENTS.....	ix
4. PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS.....	ix
INVITATION TO TENDER.....	xi
SECTION I – INSTRUCTIONS TO TENDERERS.....	1
A. General.....	1
1. Scope of Tender.....	1
2. Definitions.....	1
3. Fraud and Corruption.....	1
4. Eligible Tenderers.....	1
5. Qualification of the Tenderer.....	3
B. Contents of Tendering Document.....	3
6. Sections of Tendering Document.....	3
7. Site Visit.....	4
8. Pre-Tender Meeting and a pre-arranged pretender visit of the site of the works.....	4
9. Clarification of Tender Documents.....	4
10. Amendment of Tendering Document.....	5
C. Preparation of Tenders.....	5
11. Cost of Tendering.....	5
12. Language of Tender.....	5
13. Documents Comprising the Tender.....	5
14. Form of Tender and Activity Schedule.....	6
15. Alternative Tenders.....	6
16. Tender Prices and Discounts.....	6
17. Currencies of Tender and Payment.....	6
18. Documents Establishing Conformity of Services.....	7
19. Documents Establishing the Eligibility and Qualifications of the Tenderer.....	7
20. Period of Validity of Tenders.....	8
21. Tender Security.....	8
22. Format and Signing of Tender.....	9
D. Submission and Opening of Tenders.....	9
23. Sealing and Marking of Tenders.....	9
24. Deadline for Submission of Tenders.....	10
25. Late Tenders.....	10
26. Withdrawal, Substitution and Modification of Tenders.....	10
27. Tender Opening.....	10
E. Evaluation and Comparison of Tenders.....	11
28. Confidentiality.....	11
29. Clarification of Tenders.....	11
30. Deviations, Reservations, and Omissions.....	12

31.	Determination of Responsiveness.....	12
32.	Arithmetical Errors	12
33.	Conversion to Single Currency.....	13
34.	Margin of Preference	13
35.	Evaluation of Tenders	13
36.	Comparison of Tenders	13
37.	Abnormally Low Tenders and Abnormally High Tenders	14
38.	Unbalanced and/or Front-Loaded Tenders	14
39.	Qualification of the Tenderer.....	14
40.	Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders.....	15
F.	Award of Contract.....	15
41.	Award Criteria.....	15
42.	Notice of Intention to enter into a Contract	15
43.	Standstill Period.....	15
44.	Debriefing by the Procuring Entity.....	15
45.	Letter of Award.....	15
46.	Signing of Contract.....	16
47.	Performance Security	16
48.	Publication of Procurement Contract.....	16
49.	Adjudicator	16
50.	Procurement Related Complaints	16
	SECTION II - TENDER DATASHEET (TDS).....	17
	SECTION III - EVALUATION AND QUALIFICATION CRITERIA.....	21
1.	General Provision	21
2.	Preliminary examination for Determination of Responsiveness	21
3.	Tender Evaluation (ITT 34)	21
4.	Multiple Contracts	21
5.	Alternative Tenders (ITT 14)	22
6.	MARGIN OF PREFERENCE.....	22
7.	Post qualification and Contract award (ITT 39), more specifically	22
	SECTION IV –TENDERING FORMS	2
1.	FORM OF TENDER.....	27
a)	TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE	27
b)	CERTIFICATE OF INDEPENDENT TENDER DETERMINATION.....	30
c)	SELF- DECLARATION FORM	31
d)	APPENDIX 1 - FRAUD AND CORRUPTION	34
2.	TENDERER INFORMATION FORM.....	36
3.	TENDERER'S JV MEMBERS INFORMATION FORM.....	37
	OTHER FORMS	38
4.	FORM OF TENDER SECURITY – DEMAND BANK GUARANTEE.	38
5.	FORM OF TENDER SECURITY (INSURANCE GUARANTEE).....	39
6.	FORM OF TENDER - SECURING DECLARATION	40
	QUALIFICATION FORMS.....	41
7.	FOREIGN TENDERERS 40% RULE	41
8.	FORM EQU: EQUIPMENT.....	43
9.	FORM PER -1	43
10.	FORM PER-2	45
	TENDERERS QUALIFICATION WITHOUT PREQUALIFICATION.....	47
11.	FORM ELI -1.1	47
12.	FORM ELI -1.2	48
13.	FORM CON- 2	49

14.	FORM FIN - 3.1 - Financial Situation and Performance	51
15.	FORM FIN - 3.2 - Average Annual Construction Turnover.....	54
16.	FORM FIN - 3.3 - Financial Resources.....	55
17.	FORM FIN - 3.4 - Current Contract Commitments / Works in Progress	55
18.	FORM EXP - 4.1- General Relevant Work Experience	56
19.	FORM EXP - 4.2(a) - Specific Work and Management Experience	57
20.	FORM EXP - 4.2(b) - Work Experience in Key Activities	58

SCHEDULE FORMS.....59

1.	The Specifications and Priced Activity Schedules	61
2.	Method Statement.....	62
4.	Others –Time Schedule	63
5.	NOTIFICATION OF INTENTION TO AWARD.....	64
6.	REQUEST FOR REVIEW	67
7.	LETTER OF AWARD	67
8.	FORM OF CONTRACT	68
9.	FORM OF TENDER SECURITY (Bank Guarantee)	70
10.	FORM OF TENDER SECURITY (INSURANCE GUARANTEE).....	71
11.	FORM OF TENDER- SECURING DECLARATION	72

PART II – PROCURING ENTITY'S REQUIREMENTS.....73

Section VII -Activity Schedule.....74

1.	Objectives	74
2.	Day work Schedule.....	74
3.	Provisional Sums	74

PERFORMANCE SPECIFICATIONS AND DRAWINGS 75

PART III – CONDITIONS OF CONTRACT AND CONTRACT FORM.....75

Section VIII - General Conditions of Contract76

General Provisions.....76

1.	Definitions.....76
	Applicable Law
	Language.....
	Notices
	Location
	Authorized Representatives
	Inspection and Audit by the PPRA
	Taxes and Duties
2.	Commencement, Completion, Modification, and Termination of Contract77
	Effectiveness of Contract.....
	Commencement of Services

Program.....78

Starting Date	78
Intended Completion Date	78
Modification.....	78
Value Engineering.....	78

	Force Majeure	78
	Definition.....	78
	No Breach of Contract.....	78
	Extension of Time	79
	Payments	79
	Termination.....	79
	By the Procuring Entity.....	79
	By the Service Provider.....	79
	Payment upon Termination	79
3.	Obligations of the Service Provider.....	80
	General	80
	Conflict of Interests.....	80
	Service Provider Not to Benefit from Commissions and Discounts.	80
	Service Provider and Affiliates Not to be Otherwise Interested in Project.	80
	Prohibition of Conflicting Activities.	80
	Confidentiality.....	80
	The Service	80
	Service Provider's Actions Requiring Procuring Entity's Prior Approval	80
	Reporting Obligations.....	81
	Documents Prepared by the Service Provider to Be the Property of the Procuring Entity	81
	Liquidated Damages	81
	Payments of Liquidated Damages	81
	Correction for Over-payment	81
	Lack of performance penalty	81
	Performance Security	81
	Fraud and Corruption.....	81
	Sustainable Procurement.....	82
4.	Service Provider's Personnel.....	82
	Description of Personnel.....	82
	Removal and/or Replacement of Personnel	82
5.	Obligations of the Procuring Entity	82
	Assistance and Exemptions	82
	Change in the Applicable Law.....	82
	Services and Facilities	82
6.	Payments to the Service Provider.....	82
	Lump-Sum Remuneration.....	82
	Contract Price	83
	Payment for Additional Services, and Performance Incentive Compensation	83
	Terms and Conditions of Payment	83
	Interest on Delayed Payments.....	83
	Price Adjustment.....	83
	Day works	84
7.	Quality Control	84
	Identifying Defects	84
	Correction of Defects, and Lack of Performance Penalty	84
8.	Settlement of Disputes.....	84
	Contractor's Claims.....	84
	Matters that may be referred to arbitration.	85

Amicable Settlement.....	85
Arbitration	86
Arbitration with proceedings	86
Failure to Comply with Arbitrator's Decision	87
9. The Adjudicator.....	87
SECTION IX - SPECIAL CONDITIONS OF CONTRACT	88
Appendices	91
Appendix A - Description of the Services	91
Appendix B - Schedule of Payments and Reporting Requirements	91
Appendix C - Subcontractors.....	91
Appendix D - Breakdown of Contract Price.....	91
Appendix E - Services and Facilities Provided by the Procuring Entity	91
SECTION X –CONTRACT FORMS	92
1. FORM NO. 1 - PERFORMANCE SECURITY – (Unconditional Demand Bank Guarantee)	93
2. FORM No. 2 - PERFORMANCE SECURITY OPTION 2– (Performance Bond)	94
3. FORM NO. 3 - ADVANCE PAYMENT SECURITY [Demand Bank Guarantee].	96
4. FORM No. 4 - BENEFICIAL OWNERSHIP DISCLOSURE FORM	96

INVITATION TO TENDER

THE INFORMATION AND COMMUNICATION TECHNOLOGY AUTHORITY (ICTA)
P.O. BOX 27150-00100 Nairobi.

TENDER NAME: REHABILITATION OF ISIOLO – MOYALE FIBRE OPTIC BACKBONE INFRASTRUCTURE

1. The **Information & Communications Technology Authority** invites sealed tenders for the **REHABILITATION OF ISIOLO – MOYALE FIBRE OPTIC INFRASTRUCTURE**. The duration of the contract will be 1 year.
2. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours i.e **0900 to 1600 hours** at the address given below.
4. A complete set of tender documents may be purchased or obtained by interested tenders upon payment of a non-refundable fees of Kshs. 1,000.00 in cash or Banker's Cheque and payable to the address given below. Tender documents may be obtained electronically from the Authority's Website (www.icta.go.ke/tenders) or the Public Procurement Information Portal (www.tenders.go.ke) Tender documents obtained electronically will be free of charge.
5. Tender documents may be viewed and downloaded for free from the website (www.icta.go.ke/tenders). Tenderers who download the tender document must forward their particulars immediately to procurement@ict.go.ke to facilitate any further clarification or addendum.
6. All Tenders must be accompanied by a tender security of **Kshs. 1,000,000 (One Million) valid for a Period of 156 days from the date of tender opening from a reputable bank approved by CBK or an insurance company approved by the Public Procurement Regulatory Authority (PPRA)**.
7. Tenders are to remain valid for a period of 126 days from the date of tender submission. Shorter validity period will render the bid non-responsive.
8. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
9. Completed tenders must be delivered to the address below on or before **Monday, 26th September 2022 at 10am**. **Electronic Tenders will not be permitted.**
10. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
11. There shall be a pre-bid meeting to be held on **Monday, 19th September 2021 at 11:00am** at the address given in bullet 13 below.
12. Late tenders will be rejected.
13. The addresses referred to above are:

A. Address for obtaining further information and for purchasing tender documents

Information & Communications Technology Authority

Procurement Office, Telposta Towers, 12th Floor, Along Kenyatta Avenue, Nairobi.

27150 – 00100 Postal Address

Email: procurement@ict.go.ke

B. Address for Submission of Tenders.

Chief Executive Officer,
Information & Communications Technology Authority
Telposta Towers, 12th Floor, Along Kenyatta Avenue,
P.O. Box 27150 – 00100,
Nairobi.

C. Address for Opening of Tenders.

- 1) Information & Communications Technology Authority
- 2) Customer Care Desk, Telposta Towers, 12th Floor, Along Kenyatta Avenue, Nairobi

Name: Dr. Kipronoh Ronoh P.

Designation: Ag. Chief Executive Officer

Signature:.....Date:.....

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 Maintenance Services, as specified in Section V, Procuring Entity's Requirements. The name, identification and number of lots (contracts) of this ITT procurement are specified in the **TDS**.

2. Definitions

- 2.1 Throughout this tendering document:

- 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 context so requires, “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 contract.

3. Fraud and Corruption

- 3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.
- 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 the contract being tendered for. The Procuring Entity shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.
- 3.5 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

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 an association or subcontracting arrangement or a Joint Venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.
- 4.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 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 Maintenance services that are the subject of the Tender; or
 - f) 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
 - g) Would be providing goods, works, or maintenance services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the **TDS** ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
 - h) Has a close business or family relationship with a professional staff of the Procuring Entity or of the project implementing agency, who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the contract, and/or the Tender evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the procurement process and execution of the Contract.
- 4.4 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. 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.
- 4.6 A Tenderer that has been sanctioned by PPRA or are under a temporary suspension or a debarment imposed by any other entity of the Government of Kenya, shall be ineligible to be prequalified for, initially selected for, tender for, propose for, or be awarded a contract during such period of sanctioning. The list of debarred firms and individuals is available at the electronic address info@ppra.go.ke.

- 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 A Tenderer under suspension from tendering as the result of the operation of a Tender-Securing Declaration or Proposal-Securing Declaration shall not be eligible to tender.
- 4.9 Firms and individuals may be ineligible if (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.
- 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 it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.
- 4.12 The Procuring Entity may require tenderers to be registered with certain authorities in Kenya. Such registration shall be defined in the TDS, but care must be taken to ensure such registration requirement does not discourage competition, nor exclude competent tenderers. Registration shall not be a condition for tender, but where a selected tenderer is not so registered, the tenderer shall be given opportunity to register before signature of contract.
- 4.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 4.14 A Tenderer may be considered ineligible if he/she offers goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

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

B. Contents of Tendering Document

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 9.

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) or the notice to prequalify 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 9. 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.

7. Site Visit

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

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

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 pretender visit of the site of the works will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

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 pretender visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

8.4 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

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 works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline

for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 10.

10. Amendment of Tendering Document

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 8.1.

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

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:** Schedules or Requirements and 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**.

13.2 In addition to the requirements under ITT 12.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted. The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

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

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 Most Advantageous Tenderer 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 13.1.

16.5 The Tenderer shall fill in rates and prices for all items of the Services described in the in Specifications (or Terms of Reference), and listed in the Activity Schedule in Section VII, Procuring Entity's Requirements. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.

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 28 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 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 Maintenance services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that Services provided conform to the technical specifications and standards specified in Section VII, Procuring Entity's Requirements.

18.2 Standards for provision of the Maintenance services are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Procuring Entity's Requirements.

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

19.1 Tenderers shall complete the Form of Tender and all the Tendering Forms included in Section IV to establish their eligibility in accordance with ITT 4.

19.2 The documentary evidence of the Tenderer's qualifications to perform the Contract if its Tender is accepted shall establish to the Procuring Entity's satisfaction that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

19.3 In the event that prequalification of Tenderers has been undertaken as stated in the **TDS**, only Tenders from prequalified Tenderers shall be considered for award of Contract. The prequalified Tenderers should submit with their Tenders any information updating their original prequalification applications or, alternatively, confirm in their Tenders that the originally submitted prequalification information remains essentially correct as of the date of Tender submission.

19.4 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a Service provider or group of service providers qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and there by help to prevent any corrupt influence in relation to the procurement process or contract management.

19.5 The purpose of the information described in ITT 18.1 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

19.6 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

19.7 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

19.8 If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.

19.9 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

- i) If the procurement process is still ongoing, 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,
- iii) The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other person have committed any criminal offence.

19.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

19.11 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

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 23.1). 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 ITT 20, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 19.3.

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 20.1, 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 20.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the contract and furnishing the Performance Security pursuant to ITT 46.

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. The Procurement Entity shall also return tender security to the tenderers where;

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

21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:

- a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereto provided by the Tenderer; or
- b) if the successful Tenderer fails to:
 - i) sign the Contract in accordance with ITT 45; or
 - ii) furnish a performance security in accordance with ITT 46.

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

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

- a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender; or
- b) if the successful Tenderer fails to:
 - i) sign the Contract in accordance with ITT 45; or
 - ii) furnish a performance security in accordance with ITT 46;

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

22. Format and Signing of Tender

22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 12, bound with the volume containing the Form of Tender, and clearly marked "Original." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS**, and clearly marked as "Copies." In the event of discrepancy between them, the original shall prevail.

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:

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

23.2 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.

23.3 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume

no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will be rejected.

24. Deadline for Submission of Tenders

- 24 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**.
- 25 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Tenders

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

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 an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
- 26.2 prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
- 26.3 received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.
- 26.4 Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.
- 26.5 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

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 ITT 24.1).

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.

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 opening registers shall be distributed to all Tenderers 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 41.

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

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

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 breakdowns of the prices in the Activity Schedule, and other information that the Procuring Entity may require. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the Tenders, in accordance with ITT 32.

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

31.1 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 Maintenance 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.
- 31.2 The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 17 and ITT18, in particular, to confirm that all requirements of Section VII, Procuring Entity's Requirements have been met without any material deviation or reservation, or omission.
- 31.3 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. Non-conformities, Errors and Omissions
- 31.4 Provided that a Tender is substantially responsive, the Procuring Entity may waive any non-conformities in the Tender.
- 31.5 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.
- 31.6 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable non material non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the **TDS**.

32. Arithmetical Errors

- 32.1 Corrected tender prices shall not be used in the evaluation of tenders, comparison of tender prices.
- 32.2 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in anyway by any person or entity.
- 32.3 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,

33. Conversion to Single Currency

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

34. Margin of Preference

- 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 Most Advantageous 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 15.4;
- b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33;
- c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 31.3;
- d) The additional evaluation factors are specified in 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.

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 or that genuine competition between Tenderers is compromised.

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 tender price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is

compromised.

37.5 In case of an abnormally high tenders, the Procurement Entity should (a) review the specifications, and conditions of tender, or correctness of the estimate or (b) possibility of a collusion, formation of cartels, or other form of fraudulent and corrupt activity in the tendering processor (c) perception of the firms on the credibility of the Procuring Entity. The Procuring Entity shall treat abnormally low and high tenders in accordance with procedures provided for in this tender document

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 a 30% 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.

39.1 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT18. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Tenderer that submitted the Tender.

39.2 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who 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 thereby incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

41 Award Criteria

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

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

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 in to a Contract/Notification of award 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 standstill period;

43. Standstill 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 into 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 43, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request. .2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

45. Letter of Award

45.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

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 X, Contract Forms, or another Form acceptable to the Procuring Entity. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not required.

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 Most Advantageous 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 under the Contract, at an hourly fee specified **in the TDS**, plus reimbursable expenses. If the Tenderer disagrees with the proposed Adjudicator, the Tenderer should so state in the Tender. If, in the Form of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.

50. Procurement Related Complaints and Administrative Review

50.1 The procedures for making a Procurement-related Complaint areas specified in the **TDS**.

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

SECTION II - TENDER DATA SHEET (TDS)

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

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT Reference	A. General
ITT 1.1	<p>The reference number of the Request for Tenders (ITT) is: ICTA/OT/04/2022 – 2023</p> <p>The Procuring Entity is: THE ICT AUTHORITY</p> <p>The name of the ITT is: REHABILITATION OF ISIOLO – MOYALE FIBRE OPTIC BACKBONE INFRASTRUCTURE</p> <p>The number and identification of lots (contracts) comprising this ITT is: N/A</p>
ITT 2.1	<p>The Procuring Entity is: THE ICT AUTHORITY</p> <p>The name of the Project is: REHABILITATION OF ISIOLO – MOYALE FIBRE OPTIC BACKBONE INFRASTRUCTURE</p>
3.4	The firms (if any) that provided consulting services for the contract being tendered for are NONE
ITT 4.1	Maximum number of members in the Joint Venture (JV) shall be: NONE
ITT 4.12	<p>The Procuring Entity may require tenderers to be registered with:</p> <ol style="list-style-type: none"> 1. National Construction Authority 2. Communications Authority of Kenya 3. Information & Communications Technology Authority (ICT Authority)
	B. Contents of Tendering Document
ITT 8.1	<p>For <u>Clarification of Tender purposes</u> only, the Procuring Entity's address is:</p> <p>Attention: Deputy Director, Supply Chain Management</p> <p>Postal Address: 27150 - 00100, Nairobi</p> <p>Physical Address: Teleposta Towers, 12th Floor, Kenyatta Avenue, Nairobi.</p> <p>Telephone: 020 6676300</p> <p>Electronic mail address: procurement@ict.go.ke</p> <p>Requests for clarification should be received by the Procuring Entity no later than: 7 days before closing date</p> <p>Web page: www.icta.go.ke/tenders or www.tenders.go.ke</p>
ITT 8.2	<p>The Firms or their Affiliates that provided consulting services for the contract being tendered for are:</p> <p>NONE</p>
ITT 8.4	<p>The Procuring Entity shall publish Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the website</p> <p>www.icta.go.ke/tenders or www.tenders.go.ke</p>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS			
ITT 9.1	The Procuring Entity will respond to request for clarification in 3 days and shall publish its response at the website www.icta.go.ke/tenders or www.tenders.go.ke			
	C. Preparation of Tenders			
ITT 13.1 (i)	The Tenderer shall submit the following additional documents in its Tender:			
	S/No.	Requirement	Mandatory	Bidder's Response
		STATUTORY DOCUMENTS		
	1.	Provide Certificate of Registration / Incorporation	Yes	
	2.	Provide a Valid CR 12 certificate from the registrar of companies	Yes	
	3.	Provide a valid business trading license	Yes	
	4.	Provide a valid tax compliance certificate	Yes	
	5.	Dully filled Confidential Business Questionnaire	Yes	
	6.	Provide a valid Certificate of Accreditation from ICT Authority category 4 or better	Yes	
	7.	Provide a Valid Certificate of registration from Communication Authority of Kenya (CAK)	Yes	
	8.	Form of Tender Duly Completed, Signed and Stamped by the Tenderer in the format provided	Yes	
	9.	Dully filled Bill of Quantities (BoQ). All items in the BoQ must be quoted for.		
	10.	Provide a Tender Security (Original) of Kenya Shillings One Million (Kes. 1,000,000.00) from a bank approved by CBK or financial institution approved by PPRA. The tender security shall be valid for 30 days beyond the tender validity period provided.	Yes	
	11.	Dully filled and signed Declaration Forms - SD 1 & SD 2	Yes	
	12.	Dully filled Certificate of Independent Tender Determination form		
	13.	Dully filled Form 1.2 Tenderer's JV Form (To be filled in case of a joint venture)	Yes	
	14.	Provide Brochures/Data Sheet of the equipment on offer with the quotation response, Should be well highlighted		
	15.	Bidders must serialize all pages for each bid submitted from the first to the last Page including any annexes.		
ITT 15.1	Alternative Tenders <i>shall not be</i> considered.			
ITT 15.2	Alternative times for completion SHALL NOT permitted.			
ITT 15.3	Alternative technical solutions shall be permitted for the following parts of the Services: NOT APPLICABLE <i>[If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]</i>			
ITT 16.7	<p>The prices quoted by the Tenderer shall not be subject to adjustment during the performance of the Contract.</p> <p>The rates are:</p> <p>For local currency _____</p> <p>For Foreign currency _____</p>			

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 19.3	Prequalification has not been undertaken.
ITT 20.1	The Tender validity period shall be 126 days.
ITT 21.1	A Tender Security shall be required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be Kshs. 1,000,000.00 (One Million Shillings)
ITT 22.1	The Tenderer shall prepare and submit 2 hard copies of the tender (1 Original & 1 Copy) and 1 (One) Soft copy provided in USB format.
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: POWER OF ATTORNEY
	D. Submission and Opening of Tenders
ITT 23.1	For <u>Tender submission purposes</u> only, the Procuring Entity's address is: Attention: The Chief Executive Officer, ICT Authority, 12th Floor Boardroom P.O. Box 27150, Nairobi 00100 GPO Website: www.icta.go.ke-tenders Email: procurement@ict.go.ke
ITT 24.1	The deadline for Tender submission is: Date: Date: 26th September 2022 Time: 10am <i>Request for Tenders, unless subsequently amended pursuant to ITT 23.2]</i> Tenderers shall not have the option of submitting their Tenders electronically.
ITT 26.1	The Tender opening shall take place at: Physical Address: ICT Authority Offices , Telposta Towers, 12th Floor Boardroom P.O. Box 27150, Nairobi 00100 GPO Date: 21st September 2021 Time: 10.00 am
ITT 27.6	<i>The Form of Tender and priced Activity Schedule shall be initialed by The Tender Opening Committee representatives of the Procuring Entity conducting Tender opening. Each Tender Shall Be Initialed By All Representatives And Shall Be Numbered, Any Modification To The Unit Or Total Price Shall Be Initialed By The Representative Of The</i>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<i>Procuring Entity.</i>
ITT 31.7	The Procuring Entity shall adjust the Tender Price for comparison purposes only in the following manner- NOT APPLICABLE
E. Evaluation and Comparison of Tenders	
ITT 34.1	Margin of preference is not allowed
ITT 34.2	<i>The invitation to tender is extended to All</i>
F. Award of Contract	
ITT 49.1	The Adjudicator proposed by the Procuring Entity is _____. The hourly fee for this proposed Adjudicator shall be _____. 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 “Notification of Intention to Award - Paragraph 5” and from PRA website www.ppra.go.ke.</p> <p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>For the attention:</p> <p>Title/position: <i>Chief Executive Officer</i> Procuring Entity: <i>The ICT Authority</i> Email: ceo@ict.go.ke</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <p>(i) the terms of the Tender Documents; and (ii) the Procuring Entity’s decision to award the contract.</p>

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provision

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:

- 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 is to be converted) was originally established.
- Value of single Contract-Exchange rate prevailing on the date of the contract signature.
- 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.

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.

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 requirements in the ITT, and that the tender is complete *in all* aspects in meeting the requirements of “*Part 2–Procuring Entity’s Services Requirements*”, including checking for tenders with unacceptable errors, abnormally low tenders, abnormally high tenders and tenders that are front loaded. The Standard Tender Evaluation Report for Goods and Works for evaluating Tenders provides clear guidelines on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered irresponsive and will not be considered further.

The table below shows the preliminary evaluation criteria.

S/No.	Requirement	Mandatory	Bidder’s Response
	STATUTORY DOCUMENTS		
1.	Provide Certificate of Registration / Incorporation	Yes	
2.	Provide a Valid CR 12 certificate from the registrar of companies	Yes	
3.	Provide a valid business trading license	Yes	
4.	Provide a valid tax compliance certificate	Yes	
5.	Dully filled Confidential Business Questionnaire	Yes	
6.	Provide a valid Certificate of Accreditation from ICT Authority category 4 or better	Yes	
7.	Provide a Valid Certificate of Registration (Contractor) from Communication Authority of Kenya (CA)	Yes	
8.	Form of Tender Dully Completed, Signed and Stamped by the Tenderer in the format provided	Yes	
9.	Dully filled Bill of Quantities (BoQ). All items in the BoQ must be quoted for.		
10.	Provide a Tender Security (Original) of Kenya Shillings One Million (Kes. 1,000,000.00) from a bank approved by CBK or financial institution approved by PPRA. The tender security shall be valid for 156 days from the date of tender opening.	Yes	
11.	Dully filled and signed Declaration Forms - SD 1 & SD 2	Yes	

12.	Dully filled Certificate of Independent Tender Determination form		
13.	Dully filled Form 1.2 Tenderer's JV Form (To be filled in case of a joint venture)	Yes	
14.	Provide Brochures/Data Sheet of the equipment on offer with the quotation response, Should be well highlighted		
15.	Bidders must serialize all pages for each bid submitted from the first to the last Page including any annexes.		

TECHNICAL EVALUATION

Technical Evaluation will be undertaken in two stages as shown below: -

- a. Vendor Evaluation
- b. Compliance with Technical Specifications

Bidders will be required to meet all the requirements in stage A (vendor Evaluation) in order to proceed to Stage B (Compliance with Technical Specification) of the evaluation.

A. Vendor Evaluation

#	DESCRIPTION	Compliance (Yes {Y} /No {N})
1.	The bidder must ensure all the all PPEs are provided on site as per OSHA requirements (Provide commitment letter)	Y/N
2.	<p>A minimum number of similar contracts, similarity being in nature, complexity and value, specified below that have been satisfactorily and substantially completed during the last three years:</p> <ol style="list-style-type: none"> a) One contract, with a minimum value of at least Kshs 79 million; OR b) Two contracts with a minimum value of each Kshs 39 million each; OR xi. c) Three contracts with a minimum value of each Kshs 26 million each - or the equivalent amount in a freely convertible currency. <p>NB: In order to be acceptable, these similar contracts should have incorporated maintenance of an Optic fiber Cable and associated equipment.</p> <p>The bidder must provide completion certificate and LPO/Contract and client recommendation letters for the mentioned contracts.</p>	Y/N
3.	Liquidity: The Bidder shall demonstrate that it has access to, or has available, liquid assets, lines of credit or other financial means sufficient to meet cash flow requirements of Kshs 79 million or equivalent.	
4.	<p>Average Annual Turnover: Minimum average annual turnover of Kshs 100 million or equivalent calculated as total certified payment received for contracts in progress or completed within the last three (3) years.</p> <p>Attach copies of financial statements for 2019, 2020 & 2021</p>	Y/N

5.	Key Technical personnel: The bidder must have technical staff assigned to this project on the following: A. Project Manager (At least 1) i. Degree/Diploma in Engineering/ICT ii. At least 4 Years' Experience in Project management iii. Certification in Project management (Attach Curriculum Vitae and certified Copies of Certificates)	Y/N
	B. Transmission Engineers (At least 1) i. Degree/Diploma in ICT or related field ii. At least 3 Years' Experience in Optical Networks implementation/maintenance – with a bias in handling transmission equipment iii. Certification in telecommunication equipment of brands stated in this document or equivalent (Attach Curriculum Vitae and certified Copies of Certificates)	Y/N
	C. Optic Fibre Cable Experts (At least 3) i. Diploma/Certificate in ICT or related field ii. At least 2 Years' Experience in Optical Networks implementation/maintenance iii. Certification in Optical cable (Attach Curriculum Vitae and certified Copies of Certificates)	Y/N
6.	Provide a detailed implementation methodology/ work plan for 8 weeks.	Y/N

D. Compliance with Technical Specification

In this stage, bidders will be required to state their compliance with the specifications provided and also provide data sheet for goods requested for. Bidders not meeting any of the following requirements will not proceed to financial evaluation stage.

Note: All Specifications should adhere to the ICTA Standards ICTA.2.001:2021(Fiber Optic Backbone, Metro and Last Mile Infrastructure Standard). This can be downloaded from website.(<https://icta.go.ke/ict-standards>)

2	OSP Installation	Specifications	Bidder Must Indicate their compliance to the requirements (Complied/Not Complied)
2.1	OFC Installation Civil Work-Backbone	Preparatory works: Engineering measurement, route cleaning, calibration and cleaning of existing duct if applicable, -Trenching including excavation, backfilling, laying warning tape, and compaction in all soils. The trench width should be 400mm, the trench depth should be 1500mm. -Breaking and reinstatement of road surface. -Supply and laying ducts: 1*O.D.40/33 ID mm HPDE pipe in trench or duct. -Installation of handhole: Averagely, install at an interval of 4 Km. -Installation of reinforced manhole at two ends of backbone when approaching town or city. -Installation of road marker as per specification.	

		<p>-Road crossing by trenching or thrust boring or directional drilling for different grade of roads in Kenya as per specification, including 110mm HDPE pipe supply and installation.</p> <p>-Bridge crossing by bridge attachment as per design (generally, 3 types)</p> <p>-River crossing by trenching or non-trenching, including C15 concrete envelop protection and scree bag protection as per specification.</p> <p>-20mm*200mm C15 concrete envelop protection in rocky trench or where else required.</p> <p>-Other O.F.C cable duct protection, such as slope protection, stone pitching, gabion protection, etc. as per specification.</p> <p>-BOSAL works for site or building entry including supply all the BOSAL work materials.</p> <p>-The bidder shall be responsible for all inland to Site.</p> <p>-The bidder shall be responsible for all security for site activities where requires.</p> <p>-Supply and install all required materials</p> <p>(Provide commitment Letter)</p>	
2.2	OFC Installation Civil Work-Metro	<p>The OFC Implementation Civil Work should be done on Turnkey basis:</p> <p>-Preparatory works: Engineering measurement, route cleaning, calibration and cleaning of existing duct if applicable,</p> <p>-Trenching including excavation, backfilling, laying warning tape, and compaction in all soils. The trench width should be 400mm, the trench depth should be 1500mm.</p> <p>-Breaking and reinstatement of road surface.</p> <p>-Supply and laying ducts: 1*1.D.33mm O.D.40mm HDPE Pipe in trench or duct.</p> <p>-Installation of reinforced manhole as per the manhole specifications : Averagely, install at an interval of 200m in town or city (manhole cover will be supplied by bidder as well)</p> <p>-Road crossing by trenching or thrust boring or directional drilling for different grade of roads in Kenya as per specification, including 110mm HDPE pipe installation.</p> <p>-Bridge crossing by bridge attachment as per design (generally, 3 types)</p> <p>-River crossing by trenching or non-trenching, including C15 concrete envelop protection and scree bag protection as per specification.</p> <p>-20mm*200mm C15 concrete envelop</p>	

		<p>protection in rocky trench or where else required.</p> <p>-Other O.F.C cable duct protection, such as slope protection, stone pitching, gabion protection, etc. as per specification.</p> <p>-BOSAL works for site or building entry including supply all the BOSAL work materials.</p> <p>-The bidder shall be responsible for all security for site activities where requires.</p> <p>-Supply and install all required materials (Provide Commitment Letter)</p>	
2.3	<p>Installation of reinforced concrete precast big manhole with polymer cover and lock mechanics (LxWxD=1312mm x 1230mm x 1300mm) with accessory</p>	<ol style="list-style-type: none"> 1. Dig the manhole pit which is fit for the manhole installation. 2. This reinforced concrete manhole can be precasted or cast-in-place. 3. Install the manhole and passive components such as bolts, nuts, bracket. 4. Supply and install a Polymer manhole cover as per specifications 5. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 6. Backfill and compact the soil after manhole installation. 7. The size of the manhole is 1312mm*1230mm*1300mm (L*W*D) 8. Concrete grade to be C20. 9. Supply and install all required materials (Provide Commitment Letter) 	
2.4	<p>Installation of reinforced concrete precast small manhole with polymer cover and lock mechanics (LxWxD=1000mm x 800mm x 1300mm) with accessory</p>	<ol style="list-style-type: none"> 1. Dig the manhole pit which is fit for the manhole installation. 2. This reinforced concrete manhole can be precasted or cast-in-place. 3. Install the manhole and passive components such as bolts, nuts, bracket. 4. Supply and install manhole Polymer cover 5. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 6. Backfill and compact the soil after manhole installation. 7. The size of the manhole is 1000mm*800mm*1300mm (L*W*D) 8. Concrete grade to be C20. 9. Supply and install all required materials (Provide Commitment Letter) 	

2.5	Installation of Handhole (φ515mm) with accessory for rural area	1. Dig the handhole pit which is fit for the handhole installation. 2. Install the handhole and passive components. 3. Backfill and compact the soil after handhole installation. 4. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 5. The bidder shall be responsible for all transportation to Site. (Provide Commitment Letter)	
3	OSP Installation	Specification	
3.1	OFC Installation - Backbone	-O.F.Cable blowing or pulling (48 cores or 24core) as per the design 2. Bidder shall supply the OSP materials as follows: OFC cables and all its accessories, OFC cable joint closures, accessories, tools, staffs, machines, etc. for completion of works. -The bidder works shall follow all the project specification, requirement and ICTA standards. -The bidder shall be responsible for all transportation to Site. -The bidder shall be responsible for all security for site activities where required. - Supply and install all required materials (Provide Commitment Letter)	
3.2	OFC Installation - Metro	1. The OFC Implementation O.F.Cable Work should be done on Turnkey basis: -O.F.Cable blowing or pulling (48 cores or 24 cores) 2. Bidder shall supply the OSP materials as follows: OFC cables, OFC cable joint closures, ODFs, Cabinets, accessories, tools, staffs, machines, etc. for completion of works. -The bidders works shall follow all the project specification, requirement and ICTA standards. -The bidder shall be responsible for all transportation to Site. -The bidder shall be responsible for all security for site activities where requires. - Supply and install all required materials (Provide Commitment Letter)	
3.3	OFC Aerial Installation	1. Pole erection - Includes digging a hole and installation of dressed pole 2. Laying overhead cable 3. Installation of Two thimble eye bolt, 0.25-inch-thick strand wire, concrete attached anchor bolt 4. Pole supply and transport when required 5. Supply and install all required materials (Provide Commitment Letter)	

3.4	O.F. Cable Splicing & Test	<p>1. Splicing and testing of fibers to be done on site</p> <p>2. Attenuation coefficient, length, position and loss of all splice joints shall be measured in accordance with IEC 793-1 and EIA 455 standards using an Optical Time Domain Reflect meter (OTDR) and a buffer fiber should be used in the measurements. The results shall be recorded as a trace and in a table format. The length of fibre should be tested at the same time.</p> <p>(Provide Commitment Letter)</p>	
3.5	O.F. Cable Termination & Test	<p>1. OFC termination by fusion & testing after installation of the cables and termination racks.</p> <p>3. All cores should be terminated.</p> <p>(Provide Commitment Letter)</p>	
4	Material Supply	Specification	
4.1	Supply & Install HDPE pipe with Silicon core(Φ33/40mm) and necessary accessories	<p>1.High density polyethylene (HDPE) with silicone inner layer</p> <p>2. These ducts must have 40mm exterior side and 33mm inner diameter, and must support OFC by blowing at 2km distance using a 10-bar pressure.</p> <p>3. The drum length is 2km.</p> <p>4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side.</p> <p>5. Duct labelling will be as follows: =HDPE Silicon Duct= =ø 40/33mm G.O.K-M.O.I.C.T/ICTA -2020= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture)</p> <p>6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc.</p> <p>(Provide Data Sheet)</p>	
4.2	Supply & Install HDPE pipe with Silicon core(Φ26/32mm) and necessary accessories	<p>1.High density polyethylene (HDPE) with silicone inner layer</p> <p>2.These ducts must have 32mm exterior side and 26mm inner diameter, and must support OFC by blowing at 2km distance using a 10 bar pressure.</p> <p>3. The drum length is 2km.</p> <p>4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side.</p> <p>5. Duct labeling will be as follows: =HDPE Silicon Duct= =ø 32/26mm G.O.K-M.O.I.C. T/ICTA-2017= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture)</p>	

		<p>6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc. (Provide Data Sheet)</p>	
4.3	Supply & Install HDPE pipe Φ110mm (PN10) and necessary accessories	<p>1.High density polyethylene (HDPE) with silicone inner layer 2. These ducts must have 110mm exterior diameter, and must support PN10. 3. The drum length is 50m. 4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side. 5. Duct labeling will be as follows: =HDPE Silicon Duct= =ø 110mm G.O.K-M.O.I.C. T/ICTA-2017= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture) 6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc. (Provide Data Sheet)</p>	
4.4	Supply & Install Warning Tape	<p>1. The warning tape shall be made of PVC OR PE having approximately 10cm in width and 0.1mm in thickness 2. The background color of the warning tape shall be yellow 3. The mark words shall be enlarged up to the full width of the warning tape and shall be durably printed in black color 2 meter apart 4. The words; CAUTION: Do not dig! OGN O.F.C Cable underneath: Government Of Kenya-M.O.I.C.T, Contact Principal Secretary, M.O.I.C.T shall be displayed on the warning tape at intervals of half (0.5) meters. (Provide Data Sheet)</p>	
4.5	Supply & Install Plastic Joint Marker	<p>1. Marker post made of solid hardened plastic material; 2. The marker posts to be painted white (2 coats) but the base not to be painted. 3. The Labelling has text height of 25mm (with J having 60mm height) and 15mm spacing between the lines, all black in colour and sink engraved to 2mm depth. 4. All post surfaces to be fully smooth 5. 400mm of the marker post to be above the ground surface (Provide Data Sheet)</p>	
4.6	Supply & Install Plastic Directional Marker	<p>1. Marker post made of solid hardened plastic material; 2. The marker posts to be painted white (2 coats) but the base not to be painted. 3. The Labelling has text height of 25mm (with < having 60mm height) and 15mm</p>	

		spacing between the lines, all black in color and sink engraved to 2mm depth. 4. All post surfaces to be fully smooth 5. 400mm of the marker post to be above the ground surface (Provide Data Sheet)	
4.7	Supply and Install Handhole with cover and necessary accessories	1. Plastic material 2. Approximate Inner dimension: depth is 900mm, diameter is 1000mm. 3. 3 cable run directions at least. 4. 3 Joint box hanging mechanism at least. 5. Cover branded Government of Kenya /ICTA and court of arms logo. 6. Body branded Government of Kenya/ICTA and court of arms logo. (Provide Data Sheet)	
4.8	Supply & Install 10m dressed wooden pole	Chemical treated wooden pole, 10m length, top diameter 140-200mm, top cover should be galvanized steel material, the diameter should be 100mm more than top diameter of the pole. (Provide Data Sheet)	
4.9	Supply & Install Two thimble eye bolt, 0.25 inch thick strand wire, concrete attached anchor bolt	Two thimble eye bolt, 0.25 inch thick strand wire, concrete attached anchor bolt (Provide Data Sheet)	
5.0	Supply of OFC 24 Core with accessories;	ITU G652 (Provide Data Sheet)	
5.2	Supply of closure kit/joint box	Standard domed shaped closure kit (Provide Data Sheet)	

FINANCIAL EVALUATION

The bidder with the lowest financial cost shall be recommended for award of this contract provided they have met all the mandatory preliminary and Technical requirements/specifications.

Award Criteria

a) Post qualification Due Diligence

ICT Authority shall conduct post qualification due diligence to determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily. If the bidder is found to have given false information in the tender hence not meeting the requirements shall be disqualified from this tender.

b) Award

The winning bidder will enter into a one-year contract with ICT Authority.

3. Tender Evaluation (ITT 34) Price evaluation: in addition to the criteria listed in ITT 34.2 (a)–(d)

the following criteria shall apply:

- i) **Alternative Completion Times**, if permitted under ITT 13.2, will be evaluated as follows:
NOT APPLICABLE
Alternative Technical Solutions for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows: **NOT APPLICABLE**
- ii) **Other Criteria**; if permitted under ITT 34.2 (e):
NOT APPLICABLE

4. Multiple Contracts

Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

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

OPTION 2

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

5. Alternative Tenders (ITT 14)

An alternative if permitted under ITT 13.1, will be evaluated as follows:

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2- Procuring Entity's requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

6. Margin of Preference

Apply Margin of Preference, if so allowed to all evaluated and accepted tender as follows.

If the TDS so specifies, the Procuring Entity will grant a margin of preference of fifteen percent (15%) to be loaded on evaluated prices of foreign tenderers, where the percentage of shareholding of Kenyan citizens is less than fifty-one percent (51%).

Contractors applying for such preference shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference.

After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into the following groups:

- i) *Group A:* tenders offered by Kenyan Contractors and other Tenderers where Kenyan citizens hold shares of over fifty one percent (51%).
- ii) *Group B:* tenders offered by foreign Contractors and other Tenderers where Kenyan citizens hold shares of less than fifty one percent (51%).

All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, a tender from Group A is the lowest, it shall be selected for the award. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 3.1 of the respective tender price, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group B and the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group B based on the first evaluation price shall be selected.

7. Post qualification and Contract award (ITT 38.1), more specifically,

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of prequalification data, if so required.
- b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
 - i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings _____.
 - ii) Minimum average annual services turnover of Kenya Shillings _____ *[insert amount]*, equivalent calculated as total certified payments received for contracts in progress and/or completed within the last _____ *[insert of year]* years.
 - iii) At least _____ *(insert number)* of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings _____ equivalent.
 - iv) Contractor's Representative and Key Personnel, which are specified as _____
 - v) Contractors key equipment listed on the table "Contractor's Equipment" below and more specifically listed as *[specify requirements for each lot as applicable]*
- iv) Other conditions depending on their seriousness.

a) **History of non-performing contracts:**

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last _____ *(specify years)*. The required information shall be furnished in the appropriate form.

b) **Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

c) **Litigation History**

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

SECTION IV - TENDERING FORMS

1. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

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

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

submission] **ITT No.:***[insert number of ITT process]*

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

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

- a) **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with ITT 9;
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4;
- 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 ITT 4.7;
- d) **Conformity:** We offer to provide the Maintenance services in conformity with the tendering document of the following: *[insert a brief description of the Maintenance services];*
- 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]*

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

Or

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

- 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 ITT 4.3, other than alternative Tenders submitted in accordance with ITT 14;
- 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, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].*

Name of Recipient	Address	Reason	Amount

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

- m) *[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.
- n) **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;
- o) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive; and
- p) **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.
- q) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- r) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Suppliers, Contractors and Service Providers, copy available from____(*specify website*) during the procurement process and the execution of any resulting contract.
- s) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

- b) Certificate of Independent Tender Determination - to declare that we completed the tender without colluding with other tenderers.
- c) Self-Declaration of the Tenderer- to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

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

Tenderer 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.		
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		

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

f) Certification

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

Full Name_____

Title or Designation_____

(Signature)

(Date)

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, as 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, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name _____

Title _____

Date _____

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

(iii) SELF-DECLARATION FORMS

FORM SD 1

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

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

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

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

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

.....
(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.....

...

iv) APPENDIX 1-FRAUD AND CORRUPTION

1. Purpose

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

2. Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- 1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
- 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
- 3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be voidable;
- 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement: -
 - a) Shall not take part in the procurement proceedings;
 - b) Shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
 - c) shall not be a subcontractor for the tenderer to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontract or appointed shall meet all the requirements of this Act.
- 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5) (a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 - i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

- ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v) “obstructive practice” is:
 - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
- (b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority(ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
 - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
 - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

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

2 TENDERER INFORMATION FORM

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

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

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

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

1. Tenderer's Name <i>[insert Tenderer's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Tenderer's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Tenderer's year of registration: <i>[insert Tenderer's year of registration]</i>
5. Tenderer's Address in country of registration: <i>[insert Tenderer's legal address in country of registration]</i>
6. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4. <input type="checkbox"/> In case of JV, Form of intent to form JV or JV agreement, in accordance with ITT 4.1. <input type="checkbox"/> A current tax clearance certificate or tax exemption certificate in case of Kenyan tenderers issued by the the Kenya Revenue Authority in accordance with ITT 4.14. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.6 documents establishing: <ul style="list-style-type: none"> • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the agency of the Procuring Entity
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

OTHER FORMS

3. TENDERER'S JV MEMBERS INFORMATION FORM

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

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

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

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

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

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Beneficiary: _____

Request for Tenders No: _____

Date: _____

TENDER GUARANTEE No.: _____

Guarantor: _____

1. We have been informed that _____ (here inafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here inafter called" the Tender") for the execution of _____ under Request for Tenders No. _____ ("the ITT").
2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
 - (a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
 - b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor before that date.

[signature(s)]

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

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas [*Name of the tenderer*] (hereinafter called “the tenderer”) has submitted its tender dated [*Date of submission of tender*] for the [*Name and/or description of the tender*] (hereinafter called “the Tender”) for the execution of ___ under Request for Tenders No. _____ (“the ITT”).
2. KNOW ALL PEOPLE by these presents that WE of [**Name of Insurance Company**] having our registered office at (hereinafter called “the Guarantor”), are bound unto [*Name of Procuring Entity*] (hereinafter called “the Procuring Entity”) in the sum of (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this ____ day of _____ 20 ____.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:
 - a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
 - b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

[Date]

[Witness]

[Signature of the Guarantor]

[Seal]

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

QUALIFICATION FORMS

1. FOREIGN TENDERERS 40% RULE

Pursuant to ITT 3.9, a foreign tenderer must complete this form to demonstrate that the tender fulfils this condition.

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT		XXXXXX	
	PERCENTAGE OF CONTRACT PRICE			

2 FORM EQU: EQUIPMENT

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer.

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

Omit the following information for equipment owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

3 **FORM PER-1** Tenderer's/Contractor's

Representative and Key Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Tenderer's/Contractor' Representative and Key Personnel.

1.	Title of position: Contractor's Representative	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
2.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
3.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
4.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
5.	Title of position: <i>[insert title]</i>	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>

4 FORM PER - 2:

Resume and Declaration - Contractor's Representative and Key Personnel.

Name of Tenderer _____

Position [#1]: <i>[title of position from Form PER-1]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Details	Address of Procuring Entity:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present Procuring Entity:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned..... *[insert either "Contractor's Representative" or "Key Personnel" as applicable]*, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Tender:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>

I understand that any misrepresentation or omission in this Form may:

- a) be taken into consideration during Tender evaluation;
- b) result in my disqualification from participating in the Tender;
- c) result in my dismissal from the contract.

Name of Contractor's Representative or Key Personnel: _____ *[insert name]*

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Tenderer:

Signature: _____

Date: (day month year): _____

TENDERERS QUALIFICATION WITHOUT PREQUALIFICATION

To establish its qualifications to perform the contract in accordance with Section III, Evaluation and Qualification Criteria the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.

5 FORM EL I -1.1

Tenderer Information

Form

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4 <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 4.1 <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 4.6, documents establishing: <ul style="list-style-type: none">• Legal and financial autonomy• Operation under commercial law• Establishing that the Tenderer is not under the supervision of the Procuring Entity
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

6 FORM ELI - 1.2

Tenderer's JV Information Form

(to be completed for each member of Tenderer's JV)

Date: _____

ITT No. and title: _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 4.4. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 4.6. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

7. FORM CON -2

Historical Contract Non-Performance, Pending Litigation and Litigation

History. Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> Contract non-performance did not occur since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.			
<input type="checkbox"/> Contract(s) not performed since 1 st January <i>[insert year]</i> specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	Non- performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.			
<input type="checkbox"/> Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
Litigation History in accordance with Section III, Evaluation and Qualification Criteria			
<input type="checkbox"/> No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.			
<input type="checkbox"/> Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.			
Year of	Outcome as	Contract Identification	Total Contract Amount

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
award	percentage of Net Worth		(currency), Kenya Shilling Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate “Procuring Entity” or “Contractor”]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

8 FORM FIN –3.1:

Financial Situation and Performance

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

6.4.1. Financial Data

Type of Financial information in _____ (currency)	Historic information for previous _____ years, _____ (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITT 15 for the exchange rate

15. Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	Source of finance	Amount (Kenya Shilling equivalent)
1		
2		
3		

Financial documents

The Tenderer and its parties shall provide copies of financial statements for _____ years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.1. The financial statements shall:

- a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).
- b) Be independently audited or certified in accordance with local legislation.
- c) Be complete, including all notes to the financial statements.
- d) Correspond to accounting periods already completed and audited.

Attached are copies of financial statements² for the _____ years required above; and complying with the requirements

16. FORM FIN –3.2:

Average Annual Construction Turnover

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

		Annual turnover data (construction only)	
Year	Amount Currency	Exchange rate	Kenya Shilling equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

17. FORM FIN -3.3:

Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contractor contracts as specified in Section III, Evaluation and Qualification Criteria.

Financial Resources		
No.	Source of financing	Amount (Kenya Shilling equivalent)
1		
2		
3		

18. FORM FIN -3.4:

Current Contract Commitments / Works in Progress

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

No.	Name of Contract	Procuring Entity's Contact Address, Tel,	Value of Outstanding Work [Current Kenya Shilling /month Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month]
1					
2					
3					
4					
5					

19. FORM EXP - 4.1

General Relevant Work Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Page _____ of _____ pages

Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	

20. FORM EXP - 4.2 (a)

Specific Work and Management Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Kenya Shilling			
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:				
1. Amount				
2. Physical size of required works items				
3. Complexity				
4. Methods/Technology				
5. Construction rate for key activities				
6. Other Characteristics				

21. FORMEXP- 4.2 (b)

Work Experience in Key Activities

Tenderer's Name: _____

Date: _____

Tenderer's JV Member Name: _____

Sub-contractor's Name³ (as per ITT 34): _____

ITT No. and title: _____

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1 Key Activity No One:

Information				
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount			Kenya Shilling	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
Procuring Entity's Name:				
Address: Telephone/fax number E-mail:				

2 Activity No. Two

3.

³If applicable

SCHEDULE FORMS

*[The Tenderer shall fill in these Forms in accordance with the instructions indicated. The list of line items in column I of the **Activity Schedules** shall coincide with the List of Maintenance services specified in the Procuring Entity's Requirements.]*

WORK SCHEDULES AND SPECIFICATIONS

The Specifications and Priced Activity Schedules

Date: _____,

ITT No: _____,

Alternative No: _____

1	2	3	4	5	6
Item Line/	Description of Services	Units	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6)
1	Supply of OFC 24 Core (G652D)	km	74		
2	Supply of Joint Box Doomed Shape (24 Cores)	pcs	25		
3	Supply of HDPE Duct 32/26mm	km	69		
4	Supply of Warning tape	pcs	69		
5	Supply of ADSS cable 24 core (G652D)	km	14		
6	Supply of Suspension Clamps	pcs	64		
7	Supply of Dead-end fittings	pcs	191		
8	Supply of Couplers	pcs	100		
9	Supply of Handholes	pcs	50		
10	Supply of Manholes and Manhole Covers	pcs	19		
11	Supply of Slack holders	pcs	6		
PLANNING & DESIGNING					
12	As-built Drawings	km	77.70		
13	Field Detailed survey & Detailed design	km	77.70		
INSTALLATION OF POLES, MANHOLES & DUCTS					
14	Installation of Duct and related accessories	km	69		
15	Installation of Warning tape and related accessories	km	69		
16	Installation of Poles and accessories	pcs			
17	Installation of manholes and accessories	pcs	19		
18	Installation of handholes and accessories	pcs	50		
EXCAVATION AND BACKFILLING OF TRENCH					

1	2	3	4	5	6
Item Line/	Description of Services	Units	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6)
19	Route Clearing	km	77.70		
20	Civil work installation in all the soil (D=1.50m,W=0.3m)	km	70		
INSTALLATION OF OFC CABLE					
21	Blowing/Manual Pulling O.F. Cable in HDPE pipe	km	74		
22	Stringing of ADSS Cable	km	14		
SPLICING AND TERMINATION TEST					
23	OFC Splicing & test (Joint Box) 24 Cores	Per Closure	25		
24	Site Termination and testing	Lot	1		
PROJECT MANAGEMENT					
25	Project Management	months	2		
	SUB TOTAL				
	VAT 16%				
	GRAND TOTAL				

1. Method Statement

[Procuring Entity shall provide main features of the expected method of carrying out the contract, including indicating the material, personnel and equipment inputs].

4. OTHERS – TIME SCHEDULE

(to be used by Tenderer when alternative Time for Completion is invited in ITT 14.2)

5. NOTIFICATION OF INTENTION TO AWARD

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

1) For the attention of Tenderer's Authorized Representative Name:*[insert Authorized Representative's name]*

Address:*[insert Authorized Representative's Address]*

Telephone numbers:*[insert Authorized Representative's telephone/fax numbers]*

Email Address:*[insert Authorized Representative's email address]*

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

DATE OF TRANSMISSION: This Notification is sent by: *[email/fax]* on *[date]* (local time)

Procuring Entity:*[insert the name of the Procuring Entity]*

Contract title:*[insert the name of the contract]*

ITT No:*[insert ITT reference number from Procurement Plan].*

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

- a) Request a debriefing in relation to the evaluation of your Tender, and/or
- b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

(i) The successful Tenderer

Name:	<i>[insert name of successful Tenderer]</i>
Address:	<i>[insert address of the successful Tenderer]</i>
Contract price:	<i>[insert contract price of the successful Tender]</i>

(ii) Other Tenderers **[INSTRUCTIONS: insert names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.]**

Name of Tenderer	Tender price	Evaluated Tender price (if applicable)
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated price]</i>
<i>[insert name]</i>	<i>[insert Tender price]</i>	<i>[insert evaluated price]</i>

2) How to request a debriefing.

DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time).

You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

Attention:*[insert full name of person, if applicable]*

Title/position:*[insert title/position]*

Agency:*[insert name of Procuring Entity]*

Email address:*[insert email address]*

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

3) How to make a complaint?

Period: Procurement-related Complaint challenging the decision to award shall be submitted by *[insert date and time]*.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

Attention: *[insert full name of person, if applicable]*

Title/position:*[insert title/position]*

Agency: *[insert name of Procuring Entity]*

Email address: *[insert email address]*

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the period stated above.
4. You must include, in your complaint, all of the information required to support the complaint.
5. The application must be accompanied by the fees set out in the Procurement Regulations, which shall not be

refundable (information available from the Public Procurement Authority at complaints@ppra.go.ke or info@ppra.go.ke)

4) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended as stated in Section 4 above. If you have any questions regarding this Notification please don't hesitate to contact us. On behalf of the Procuring Entity:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

2 Request for Review

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

..... APPLICANT

AND

.....RESPONDENT (Procuring Entity)

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

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
- 2.

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

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

SIGNED

Board Secretary

3 LETTER OF AWARD

[Form head paper of the Procuring Entity] [date] To:[name and address of the Service Provider]

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us (Procuring Entity).

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section X, Contract Forms, of the tender document.

Please return the attached Contract dully signed Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract

4 FORM OF CONTRACT [Form head paper of the Procuring Entity]

LUMP-SUMREMUNERATION

This CONTRACT (herein after called the “Contract”) is made the [day] day of the month of [month], [year], between, on the one hand, [name of Procuring Entity] (herein after called the “Procuring Entity”) and, on the other hand, [name of Service Provider] (herein after called the “Service Provider”).

[**Note:** In the text below text in brackets is optional; all notes should be deleted in final text. If the Service Provider consist of more than one entity, the above should be partially amended to read as follows: “... (herein after called the “Procuring Entity”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Procuring Entity for all the Service Provider's obligations under this Contract, namely, [name of Service Provider] and [name of Service Provider] (herein after called the “Service Provider”).]

WHEREAS

- a) the Procuring Entity has requested the Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (herein after called the “Services”);
- b) the Service Provider, having represented to the Procuring Entity that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of.....;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Agreement, and the priority of the documents shall be as follows:
 - a) The Form of Acceptance;
 - b) The Service Provider's Tender
 - c) The Special Conditions of Contract;
 - d) The General Conditions of Contract;
 - e) The Specifications and the Priced Activity Schedule; and
 - f) The following Appendices: [**Note:** If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.]

Appendix A: Description of the Services

Appendix B: Schedule of Payments

Appendix C: Subcontractors Appendix

D: Breakdown of Contract Price

2. The mutual rights and obligations of the Procuring Entity and the Service Provider shall be as set forth in the Contract, in particular:
 - a) The Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
 - b) The Procuring Entity shall make payments to the Service Provider in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in the irrespctive names as of the day and year first above written.

For and on behalf of [name of Procuring

Entity] [Authorized Representative]

For and on behalf of *[name of Service*

Provider] [Authorized Representative]

[Note: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Service Provider

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]

PART II – PROCURING ENTITY'S REQUIREMENTS

SECTION VII - ACTIVITY SCHEDULE

Objectives

The objectives of the Activity Schedule are:-

- (a) to provide sufficient information on the quantities of Services to be performed to enable Tenders to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

In order to attain these objectives, Services should be itemized in the Activity Schedule insufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule should be as simple and brief as possible.

Day work Schedule

A Day work Schedule should be included only if the probability of unforeseen work, outside the items included in the Activity Schedule, is high. To facilitate checking by the Procuring Entity of the realism of rates quoted by the Tenderers, the Day work Schedule should normally comprise the following:

- a) A list of the various classes of Services, labor, materials, and plant for which basic day work rates or prices are to be inserted by the Tenderer, together with a statement of the conditions under which the Service Provider will be paid for services delivered on a day work basis.
- b) Nominal quantities for each item of Day work, to be priced by each Tenderer at Day work rates as Tender. The rate to be entered by the Tenderer against each basic Day work item should include the Service Provider's profit, overheads, supervision, and other charges.

Provisional Sums

The estimated cost of specialized services to be carried out, or of special goods to be supplied, by other Service Providers should be indicated in the relevant part of the Activity Schedule as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Procuring Entity to select such specialized Service Providers. To provide an element of competition among the Tenderers in respect of any facilities, amenities, attendance, etc., to be provided by the successful Tenderer as prime Service Provider for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Activity Schedule inviting the Tenderer to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing an Activity Schedule are intended only as information for the Procuring Entity or the person drafting the tendering document. They should not be included in the final document

PERFORMANCE SPECIFICATIONS AND DRAWINGS

TECHNICAL SPECIFICATIONS

Background

The Government Development Blueprint, Vision 2030, seeks to spur socio-economic growth in the country through use of Information and Communications Technologies (ICTs), the Government is actively strengthening the ICT infrastructure construction, promoting the popularization of the Internet Technologies, and raising the ICT application level, so as to have an Information Society. Towards this end, the Government has laid over 10,000 Km of One Government Network (OGN) across the country.

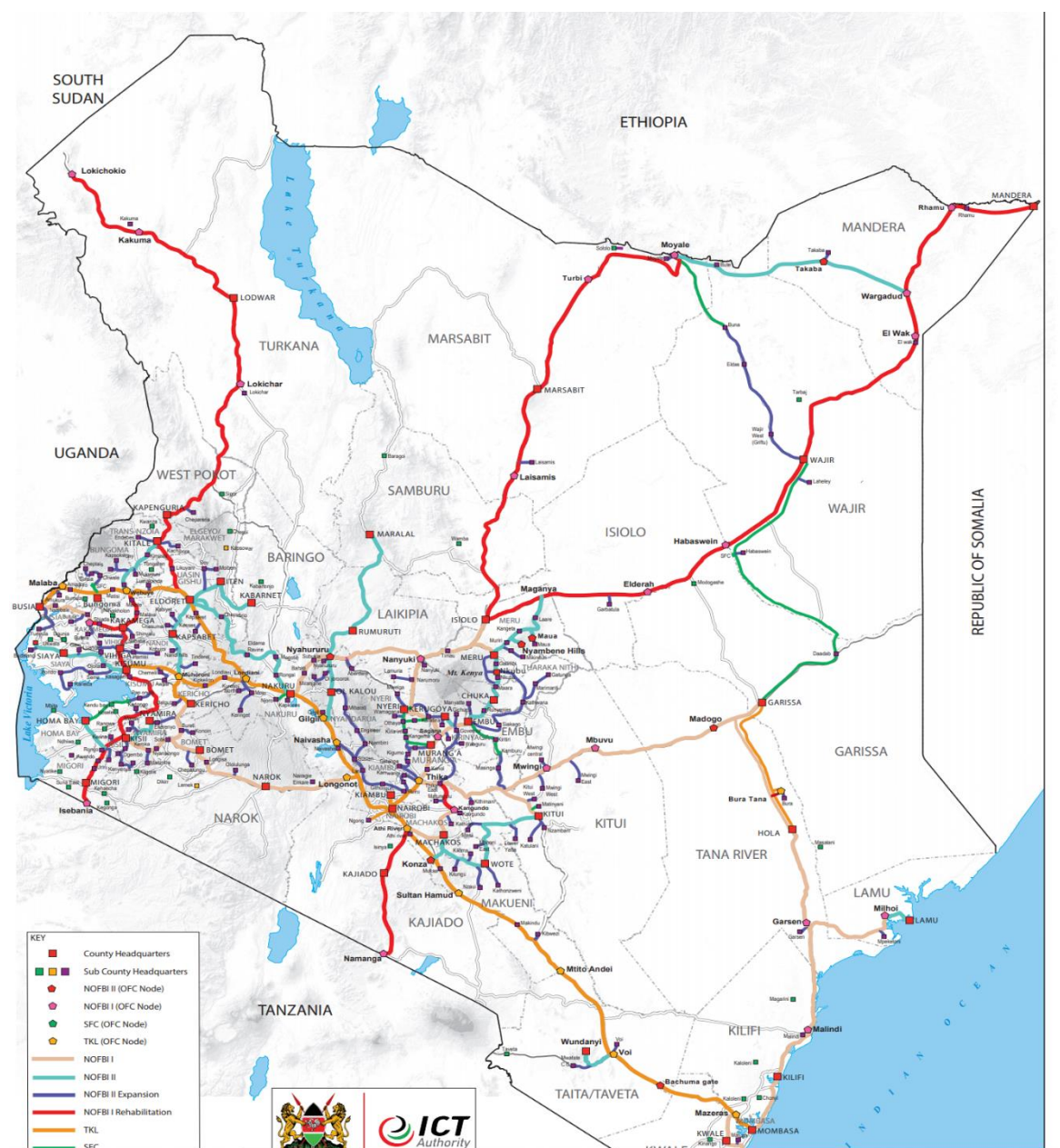


Figure 1: OGN MAP

5.2.2 Project Scope

The assignment involves;

OGN Rehabilitation scope the installation of new fibre optic cable along the identified section of the OGN in the region as per the agreed service level agreement (SLA) serving the National and county Government Offices as well as internet service providers. The scope includes:

1. Outside Plant (OSP) Rehabilitation as per Annex 1

The scope of work for OSP Rehabilitation shall be as shown in the table below.

SERVICE	Activities expected
Survey and Design	The scope of work includes but not limited to: <ul style="list-style-type: none">• Survey and Inspection the fibre<ul style="list-style-type: none">a. Check for changes in geology along the optical cable route, such as sink holes, landslides, water and soil erosion on or near the route and any damages that may have occurred along the optical cable route;b. Check whether the markers and marker plates are intact, lost or damaged along the optical cable duct route, replace or repair if necessary;• Identify sections that require new OFC• Develop and provide a design
Rehabilitation	The scope of work includes but not limited to: <ul style="list-style-type: none">• Installation of new OFC in identified sections as per provided specifications on table 2• Cores cleaning to achieve targeted attenuation loss of 0.3db/km from ODF (Source) to ODF(-Sink)• Provide permanent fix for all the temporary solutions as per the specifications OSP Installation Specifications• Reconstruction of damaged duct, cable drawing and termination• Refurbishment and installation of manholes
Permanent Fix	The bidders shall be required to provide permanent fix installations for all the temporary sections and as per specification in the section NB: Costs for fiber relocation services and permanent fix should be covered within the price as per the Scope of Works (SoW)
REPORTS	The bidder shall be expected to share the following reports with the authority: <ul style="list-style-type: none">• Completion reports: The report, to be submitted and should include the following:<ul style="list-style-type: none">• As-built design in PDF and KMZ• A core utilization inventory report• Corrected Section• Permanent fix reports• Take-over / hand-over reports: These reports should include:<ul style="list-style-type: none">○ OFC links and their status including source sites, sink sites, distance and OTDR traces○ All pending snags• As-built design in PDF and KMZ A core utilization inventory report

SECTION A: TECHNICAL SPECIFICATIONS

The bidder **MUST** meet all the technical requirements below: for OSP installation and Material Supply as per (ICTA FIBER OPTIC-BACKBONE, METRO AND LAST MILE INFRASTRUCTURE STANDARD ICTA. 2.001: 2021)

All the OSP Installations shall be done as per the specifications in the table below.

2	OSP Installation	Specifications
2.1	OFC Installation Civil Work-Backbone	<p>Preparatory works: Engineering measurement, route cleaning, calibration and cleaning of existing duct if applicable,</p> <ul style="list-style-type: none">-Trenching including excavation, backfilling, laying warning tape, and compaction in all soils. The trench width should be 400mm, the trench depth should be 1500mm.-Breaking and reinstatement of road surface.-Supply and laying ducts: 1*O.D.40/33 ID mm HPDE pipe in trench or duct.-Installation of handhole: Averagely, install at an interval of 4 Km.-Installation of reinforced manhole at two ends of backbone when approaching town or city.-Installation of road marker as per specification.-Road crossing by trenching or thrust boring or directional drilling for different grade of roads in Kenya as per specification, including 110mm HDPE pipe supply and installation.-Bridge crossing by bridge attachment as per design (generally, 3 types)-River crossing by trenching or non-trenching, including C15 concrete envelop protection and scree bag protection as per specification.-20mm*200mm C15 concrete envelop protection in rocky trench or where else required.-Other O.F.C cable duct protection, such as slope protection, stone pitching, gabion protection, etc. as per specification.-BOSAL works for site or building entry including supply all the BOSAL work materials.-The bidder shall be responsible for all inland to Site.-The bidder shall be responsible for all security for site activities where requires.- Supply and install all required materials <p>(Provide commitment Letter</p>
2.2	OFC Installation Civil Work-Metro	<p>The OFC Implementation Civil Work should be done on Turnkey basis:</p> <ul style="list-style-type: none">-Preparatory works: Engineering measurement, route cleaning, calibration and cleaning of existing duct if applicable,-Trenching including excavation, backfilling, laying warning tape, and compaction in all soils. The trench width should be 400mm, the trench depth should be 1500mm.-Breaking and reinstatement of road surface.-Supply and laying ducts: 1*1.D.33mm O.D.40mm HDPE Pipe in trench or duct.

		<p>-Installation of reinforced manhole as per the manhole specifications : Averagely, install at an interval of 200m in town or city (manhole cover will be supplied by bidder as well)</p> <p>-Road crossing by trenching or thrust boring or directional drilling for different grade of roads in Kenya as per specification, including 110mm HDPE pipe installation.</p> <p>-Bridge crossing by bridge attachment as per design (generally, 3 types)</p> <p>-River crossing by trenching or non-trenching, including C15 concrete envelop protection and scree bag protection as per specification.</p> <p>-20mm*200mm C15 concrete envelop protection in rocky trench or where else required.</p> <p>-Other O.F.C cable duct protection, such as slope protection, stone pitching, gabion protection, etc. as per specification.</p> <p>-BOSAL works for site or building entry including supply all the BOSAL work materials.</p> <p>-The bidder shall be responsible for all security for site activities where requires.</p> <p>-Supply and install all required materials (Provide Commitment Letter)</p>
2.3	Installation of reinforced concrete precast big manhole with polymer cover and lock mechanics (LxWxD=1312mm x 1230mm x 1300mm)with accessory	<ol style="list-style-type: none"> 1. Dig the manhole pit which is fit for the manhole installation. 2. This reinforced concrete manhole can be precasted or cast-in-place. 3. Install the manhole and passive components such as bolts, nuts, bracket. 4. Supply and install a Polymer manhole cover as per specifications 5. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 6. Backfill and compact the soil after manhole installation. 7. The size of the manhole is 1312mm*1230mm*1300mm (L*W*D) 8. Concrete grade to be C20. 9. Supply and install all required materials <p>(Provide Commitment Letter)</p>
2.4	Installation of reinforced concrete precast small manhole with polymer cover and lock mechanics (LxWxD=1000mm x 800mm x 1300mm)with accessory	<ol style="list-style-type: none"> 1. Dig the manhole pit which is fit for the manhole installation. 2. This reinforced concrete manhole can be precasted or cast-in-place. 3. Install the manhole and passive components such as bolts, nuts, bracket. 4. Supply and install manhole Polymer cover 5. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 6. Backfill and compact the soil after manhole installation. 7. The size of the manhole is 1000mm*800mm*1300mm (L*W*D) 8. Concrete grade to be C20. 9. Supply and install all required materials

		(Provide Commitment Letter)
2.5	Installation of Handhole (φ515mm) with accessory for rural area	<ol style="list-style-type: none"> 1. Dig the handhole pit which is fit for the handhole installation. 2. Install the handhole and passive components. 3. Backfill and compact the soil after handhole installation. 4. Labeling shall be painted on both cover and body after installation, the serial number will follow design. 5. The bidder shall be responsible for all transportation to Site. (Provide Commitment Letter)
3	OSP Installation	Specification
3.1	OFC Installation - Backbone	<ul style="list-style-type: none"> -O.F.Cable blowing or pulling (48 cores or 24core) as per the design 2. Bidder shall supply the OSP materials as follows: OFC cables and all its accessories, OFC cable joint closures, accessories, tools, staffs, machines, etc. for completion of works. -The bidder works shall follow all the project specification, requirement and icta standards. -The bidder shall be responsible for all transportation to Site. -The bidder shall be responsible for all security for site activities where required. - Supply and install all required materials (Provide Commitment Letter)
3.2	OFC Installation - Metro	<ol style="list-style-type: none"> 1. The OFC Implementation O.F.Cable Work should be done on Turnkey basis: -O.F.Cable blowing or pulling (48 cores or 24 cores) 2. Bidder shall supply the OSP materials as follows: OFC cables, OFC cable joint closures, ODFs, Cabinets, accessories, tools, staffs, machines, etc. for completion of works. -The bidders works shall follow all the project specification, requirement and ICTA standards. -The bidder shall be responsible for all transportation to Site. -The bidder shall be responsible for all security for site activities where requires. - Supply and install all required materials (Provide Commitment Letter)
3.3	OFC Aerial Installation	<ol style="list-style-type: none"> 1. Pole erection - Includes digging a hole and installation of dressed pole 2. Laying overhead cable 3. Installation of Two thimble eye bolt, 0.25-inch-thick strand wire, concrete attached anchor bolt 4. Pole supply and transport when required 5. Supply and install all required materials (Provide Commitment Letter)

3.4	O.F. Cable Splicing & Test	<p>1. Splicing and testing of fibers to be done on site</p> <p>2. Attenuation coefficient, length, position and loss of all splice joints shall be measured in accordance with IEC 793-1 and EIA 455 standards using an Optical Time Domain Reflect meter (OTDR) and a buffer fiber should be used in the measurements. The results shall be recorded as a trace and in a table format. The length of fibre should be tested at the same time.</p> <p>(Provide Commitment Letter)</p>
3.5	O.F. Cable Termination & Test	<p>1. OFC termination by fusion & testing after installation of the cables and termination racks.</p> <p>3. All cores should be terminated.</p> <p>(Provide Commitment Letter)</p>
4	Material Supply	Specification
4.1	Supply & Install HDPE pipe with Silicon core(Φ33/40mm) and necessary accessories	<p>1.High density polyethylene (HDPE) with silicone inner layer</p> <p>2. These ducts must have 40mm exterior side and 33mm inner diameter, and must support OFC by blowing at 2km distance using a 10-bar pressure.</p> <p>3. The drum length is 2km.</p> <p>4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side.</p> <p>5. Duct labelling will be as follows: =HDPE Silicon Duct= =ø 40/33mm G.O.K-M.O.I.C.T/ICTA -2020= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture)</p> <p>6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc.</p> <p>(Provide Data Sheet)</p>
4.2	Supply & Install HDPE pipe with Silicon core(Φ26/32mm) and necessary accessories	<p>1.High density polyethylene (HDPE) with silicone inner layer</p> <p>2.These ducts must have 32mm exterior side and 26mm inner diameter, and must support OFC by blowing at 2km distance using a 10 bar pressure.</p> <p>3. The drum length is 2km.</p> <p>4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side.</p> <p>5. Duct labeling will be as follows: =HDPE Silicon Duct= =ø 32/26mm G.O.K-M.O.I.C. T/ICTA-2017= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture)</p> <p>6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc.</p> <p>(Provide Data Sheet)</p>

4.3	Supply & Install HDPE pipe Φ 110mm (PN10) and necessary accessories	<ol style="list-style-type: none"> 1.High density polyethylene (HDPE) with silicone inner layer 2. These ducts must have 110mm exterior diameter, and must support PN10. 3. The drum length is 50m. 4. The duct will be white in color, with 2mm thick single red strip externally (at every 90° angle) and cream on the inner side. 5. Duct labeling will be as follows: =HDPE Silicon Duct= =\varnothing 110mm G.O.K-M.O.I.C. T/ICTA-2017= =xxxxm=. Spacing of the labeling will be 1.0m. (The year will be changed to the right year of manufacture) 6. Supply and install the HDPE pipe including supply and installation of all the couplers, end plugs, etc. (Provide Data Sheet)
4.4	Supply & Install Warning Tape	<ol style="list-style-type: none"> 1. The warning tape shall be made of PVC OR PE having approximately 10cm in width and 0.1mm in thickness 2. The background color of the warning tape shall be yellow 3. The mark words shall be enlarged up to the full width of the warning tape and shall be durably printed in black color 2 meter apart 4. The words; CAUTION: Do not dig! OGN O.F.C Cable underneath: Government Of Kenya-M.O.I.C.T, Contact Principal Secretary, M.O.I.C.T shall be displayed on the warning tape at intervals of half (0.5) meters. (Provide Data Sheet)
4.5	Supply & Install Plastic Joint Marker	<ol style="list-style-type: none"> 1. Marker post made of solid hardened plastic material; 2. The marker posts to be painted white (2 coats) but the base not to be painted. 3. The Labelling has text height of 25mm (with J having 60mm height) and 15mm spacing between the lines, all black in colour and sink engraved to 2mm depth. 4. All post surfaces to be fully smooth 5. 400mm of the marker post to be above the ground surface (Provide Data Sheet)
4.6	Supply & Install Plastic Directional Marker	<ol style="list-style-type: none"> 1. Marker post made of solid hardened plastic material; 2. The marker posts to be painted white (2 coats) but the base not to be painted. 3. The Labelling has text height of 25mm (with < having 60mm height) and 15mm spacing between the lines, all black in color and sink engraved to 2mm depth. 4. All post surfaces to be fully smooth 5. 400mm of the marker post to be above the ground surface (Provide Data Sheet)
4.7	Supply and Install Handhole with cover and necessary accessories	<ol style="list-style-type: none"> 1. Plastic material 2. Approximate Inner dimension: depth is 900mm, diameter is 1000mm. 3. 3 cable run directions at least. 4. 3 Joint box hanging mechanism at least. 5. Cover branded Government of Kenya /ICTA and court of arms logo. 6. Body branded Government of Kenya/ICTA and court of arms logo.

		(Provide Data Sheet)
4.8	Supply & Install 10m dressed wooden pole	Chemical treated wooden pole, 10m length, top diameter 140-200mm, top cover should be galvanized steel material, the diameter should be 100mm more than top diameter of the pole. (Provide Data Sheet)
4.9	Supply & Install Two thimble eye bolt, 0.25 inch thick strand wire, concrete attached anchor bolt	Two thimble eye bolt, 0.25 inch thick strand wire, concrete attached anchor bolt (Provide Data Sheet)
5.0	Supply of OFC 24 Core with accessories;	ITU G652 (Provide Data Sheet)
5.2	Supply of closure kit/joint box	Standard domed shaped closure kit (Provide Data Sheet)

Annex 1: OGN FOC REHABILITATION Region/Lot

1. LOT/REGION SECTION

Point A	Point B	Free Cores	Drop Point	Required Km
Isiolo	Eldera	5	0.125	
Isiolo	Laisamis	17	17.185	10.5
Laisamis	isiolo	24	11.815	
Laisamis	Marsabit	24	9.476	24
Marsabit	Laisamis	24	0.828	
Marsabit	Turbi	24	0.1365	13.6
Turbi	Marsabit	24	Access	
Turbi	Moyale	24	Access	28.6
Moyale	Turbi	24	4.44	
Moyale	Takaba	15	5.4	
Moyale	MH	12	0.106	1
			Total	77.7

Appendices

Appendix A - Description of the Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Procuring Entity, etc.

Appendix B - Schedule of Payments and Reporting Requirements

List all milestones for payments and list the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

Appendix C - Subcontractors

List under: C-1 List of approved Subcontractors (if already available); same information with respect to their Personnel as in C-1.

Appendix D – Breakdown of Contract Price *List here the elements of cost used to arrive at the breakdown of the lump-sum price. This appendix will exclusively be used for determining remuneration for additional Services.*

Appendix E - Services and Facilities Provided by the Procuring Entity

Section X - Contract Forms

Table of Forms

1. PERFORMANCE SECURITY OPTION 1– (Unconditional Demand Bank Guarantee)
2. PERFORMANCE SECURITY OPTION 2– (Performance Bond)
3. ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]
4. BENEFICIAL OWNERSHIP DISCLOSURE FORM

FORM NO. 1 - PERFORMANCE SECURITY - (Unconditional Demand Bank Guarantee)

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[insert name and Address of Procuring*

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

PERFORMANCE GUARANTEE No.: _____

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

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

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

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

FORM No. 2 - PERFORMANCE SECURITY OPTION 2 - (Performance Bond)

[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[insert name and Address of Procuring*

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

PERFORMANCE BOND No.: _____

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

1. By this Bond _____ as Principal (hereinafter called “the Contractor”) and _____ *[insert name and Address of Procuring Entity]* as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____ as Obligee (herein after called “the Procuring Entity”) in the amount of _____ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the _____ Day of _____, 20, for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are herein after referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:
 - 1) Complete the Contract in accordance with its terms and conditions; or
 - 2) Obtain a tender or tenders from qualified tenderers for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
 - 3) Pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.

6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day_____of_____20_____.

SIGNED ON_____on behalf of

By_____in the capacity

of In the presence of_____,SIGNED ON

_____on behalf of

By_____in the capacity of

In the presence of _____

FORM NO. 3 - ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]

[Guarantor letterhead or SWIFT identifier

code] [Guarantor letterhead or SWIFT

identifier code]

Beneficiary: _____ *[Insert name and Address of Procuring*

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

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

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

1. We have been informed that _____ (herein after called “the Applicant”) has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (herein after called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____() is to be made against an advance payment guarantee.
3. At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____() ¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
 - a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
 - b) Has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number _____ at _____.
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the day of, 2, ² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

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

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

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

²Insert the expected expiration date of the Time for Completion. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]*”

[one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

FORM NO. 4 BENEFICIAL OWNERSHIP DISCLOSURE FORM

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

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

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

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

Tender Reference No.: _____ [insert identification
no] Name of the Assignment: _____ [insert name of the assignment] to:
_____ [insert complete name of Procuring Entity]

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

I) We hereby provide the following beneficial ownership information.

Details of beneficial ownership

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

OR

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

OR

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

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

rights.

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

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

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

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

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

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