



EMBU WATER AND SANITATION COMPANY LIMITED

TENDER DOCUMENTS

FOR

MEDICAL INSURANCE SERVICES

PREPARED BY

EMBU WATER AND SANITATION COMPANY LIMITED

MAY, 2017

INVITATION FOR BIDS
TENDER NO. EWASCO/2016 2017/234 – PROVISION OF STAFF
MEDICAL INSURANCE COVER FOR A PERIOD OF 2 YEARS

Embu Water and Sanitation Company Ltd (EWASCO) invites bids from registered medical insurance PROVIDERS/HMOS/under writers for provision of medical services for Directors, staff and dependants for period of two years w.e.f September 2017. The contract will be entered into for an initial period of 1 year to be renewed subject to satisfactory performance.

Tender documents with detailed specification and conditions are available at the website www.embuwater.co.ke free of charge. .

Bidders are required to serialize and arrange their bid in the order outlined in the evaluation criteria.

The Number of documents to be submitted are : 1 original and 1 copy.

Tenders in sealed envelopes bearing the correct tender number should be deposited in the Tender Box located in our head office located off Embu Meru road, Embu town next to the Kenya National Library or sent by post to :

Manager, Supply Chain management Services,
Embu Water and Sanitation Company Limited,
P.O Box 2142-60100, EMBU
Tel: 068-2231156

To be received by **2nd June , 2017 at 12.00 noon**. Tenders will be opened the same day and time in the Company's Boardroom in the presence of bidders or their representatives who choose to attend.

Bidders who download the tender documents from the website **MUST** forward the following particulars immediately via email to procurement@embuwater.co.ke : Name of Firm, Postal Address, Telephone Number, Email Address, Tender Number, Tender Name.

Prices quoted should be net *inclusive of all taxes and delivery* costs and must be in Kenya Shillings and shall remain valid during the 2017-2018 financial year.

As Tender Security ALL bidders should complete the TENDER SECURING DECLARATION FORM attached to this tender. Bidders who fail to complete this form will be Automatically Disqualified.

Yours sincerely
MANAGING DIRECTOR

EMBU WATER AND SANITATION COMPANY LTD

BID QUESTIONNAIRE

Please fill in Block letters

1. Full names of Bidder
2. Full address of bidder to which tender correspondence is to be sent
.....
3. Tenderer's telephone numbers
4. Tender number
5. Email Address of Bidders
6. Name of Bidder's representative to be contacted on matters if the Bid during the tender period.
7. Details of Bidders nominated agent (if any) to receive Bid notices. This essential if the bidder does not have his registered address in Kenya (name, Address, telephone, fax, email).

Signature of Bidder

CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part I and either Part 2 (a), or whichever applies to your type of business.

You are advised that it is a serious offence to give false information on this Form.

Part I - General:

Business Name:

Location of business premises Country/Town:

Plot No.....Street/Road:

Postal Address:Tel. No.

Nature of Business

Current Trade License No.....Expiry date:

Maximum value of business which you can handle at any one time: KSHS

Name of your bankers:

Branch

Part 2 (a) - Sole Proprietors:

Your name in full:and age.....

Nationality:Country of Origin.....

Citizenship details:

Part 2 (b)

Give details of partners if any as follows:

Name in full

Nationality

Citizenship

Shares:

Other details

1.0 INSTRUCTIONS TO TENDERERS

- 1.1 Embu Water and Sanitation Company Ltd (hereinafter referred to as (the company) invites you to tender for provision of Medical Cover for Directors, Staff and dependants in accordance with the attached Bid documents.

2.0 ELIGIBILITY AND QUALIFICATION REQUIREMENTS.

- 2.1 This invitation to tender is open to bidders who are able to demonstrate a proven technical ability to carry out work of complexity and size envisaged and who have appropriate available personnel, equipment, financial strength and managerial capacity.

The decision by the company regarding awarding of the tender and exclusion of unsuccessful bidders will be final and the company will not enter into any discussion or correspondence regarding such decision.

3.0 Cost of Tendering

- 3.1 The bidder shall bear all cost associated with the preparation of submission of his tender and the company will not be responsible or liable for those costs regardless of the conduct or outcome of the tendering process.

4.0 Contents of Bid Documents

- 4.1 The set of bid documents issued for the purpose of tendering will be composed of instructions to bidders, conditions, terms and specifications of the bid.
- 4.2 The bidder is expected to examine carefully all instruction, conditions, forms, terms and specifications in the bid documents. Failure to comply with requirements of bid submission will be at the bidder's own Risk. Pursuant to Clause 20 hereof, bidders that are not substantially responsive to the requirements of the bid documents will be rejected.

5.0 CLARIFICATION OF BID DOCUMENTS

- 5.1 Prospective bidder's requiring any clarification of the bid documents may notify us in writing on the following address;

**The Managing Director,
Embu Water and Sanitation Company Limited,
P.O. Box 2142-60100, EMBU
Telephone no. 068-31156
Email; procurement@embuwater.co.ke**

- 5.2 EWASCO shall respond in writing to any request for clarification which it receives earlier days prior to the deadline for the submission of tenders. Written copies of the response (including a

description of the query but without identifying its source) will be sent to all prospective bidders.

- 5.3** Except as described in clause 6 hereof neither the company nor any of its employees have any authority to make any explanation to bidders as to the meaning of the Bid documents or as to anything to be done or not to be done by the bidders or as to these instructions or as to any other matter or thing so as to bind the company or bind or fetter the judgment of the company in the exercise of its powers and duties under contract.

6.0 Amendment of Tender Documents

- 6.1** At any time prior to the deadline for submission of bidders the company whether at its own initiative or in response to a clarification requested by a prospective bidder may modify the bid documents by issue of an Addendum.
- 6.2** The Addendum will be sent by mail or fax to all prospective bidders who have purchased the bid documents and provided the company will have the details of an operational fax line or email address to their offices and the Addendum will be binding upon the prospective bidder's who shall promptly acknowledge receipt thereof by fax/email to the Managing Director.
- 6.3** In order to accord prospective bidders reasonable time in which to take an Addendum into account in preparing their bids, the company may, at its discretion extend the deadline for the submission of bids in accordance with clause 14 hereof.

7.0 LANGUAGE OF BID

The bid documentation and all correspondence and documents relating to the Bid exchanged by the bidder and the company shall be written in English language.

8.0 BID PRICES

- 8.1** The bidder shall fill in rates and prices for all items of work described in the bill of Rates. Any or all items against which no rate or price is entered by the bidder shall not be considered by the company.
- 8.2** The rates and prices quoted by the bidder shall be fixed for the duration of the contract and shall not be subject to adjustment except as provided for in the Condition of Contract.

9.0 CURRENCIES OF BID AND PAYMENT

- 9.1** The bid prices and unit rate shall be quoted entirely in Kenya shillings.

10.0 BID VALIDITY

- 10.1** Bids shall remain valid for a period of 90 days after the date of opening of bids as prescribed in clause 14 hereof.
- 10.2** In exceptional circumstance, prior to expiry of the original Tender validity period, the company may request the bidders for a specified extension in the period of validity. The request and the responses thereto shall be made in writing. A bidder may refuse the request without forfeiting his Tender security. A bidder agreeing to the request will not be required nor permitted to modify his Tender security correspondingly.

The provision of clause 11 hereof regarding discharge and forfeiting of Tender security shall continue to apply during the extended period of Bid validity.

11.0 TENDER SECURITY

- 11.1** The Bidder shall furnish in as part of his Tender a Tender Security equivalent to 2% of the Tender Sum. The security shall be from a reputable Bank located in Kenya in the form of a Bank Guarantee or Bankers cheque. Tender security guarantee shall continue for another 30 days after the Tender validity period.
- 11.2** Any tender not containing either a Bankers cheque or Bank guarantee of the amount specified in clause 11.1 above will be rejected by the company.
- 11.3** The tender security of unsuccessful Tender will be discharged/returned as promptly as possible as but not later than (30) days after the expiration of the period of Tender validity prescribed by the company.
- 11.4** The tender Security of the successful Tenderer will be discharge when the Tenderer has signed the Contract Agreement and furnished the required performance Security Bond.
- 11.5** The tender security may be forfeited.
- (a) If a tenderer withdraws his tender during the period of tender validity or
 - (b) In the case of a successful Tenderer, if he fails within the specified time limit to:
 - (i) Sign the Contract Agreement or
 - (ii) Furnish the required performance Security Bond.
 - (c) If the Tenderer's does not accept the correction made in accordance with clause 21 herein.

Any such forfeiture shall be without prejudice to any further or other rights or remedies that the company may be entitled to.

12.0 COMPLIANCE WITH TENDER REQUIREMENTS

- 12.1** Any tender which contains any departure from the qualification to the tender requirements may be rejected. To comply fully with this requirement the Tenders must examine and fully understand the entire Tender requirements including all the conditions of Contract.

- 12.2 On condition that a tender is submitted in accordance with the above, also a tenderer may submit, for consideration an alternative offer incorporating proposal or other variations which departs from, or qualify the tender requirements.

A fully responsive tender must accompany the alternative proposals. All departures from, and/or qualifications to the Tender requirements must be clearly stated.

13.0 SUBMISSION OF TENDERS

Sealing and Marking of Tenders

Completed Tender Documents must be addressed in plain sealed envelopes marked as follows;

BID NO EWASCO/2016-2017/234 - DIRECTORS AND STAFF MEDICAL COVER

Address to :

The Managing Director
Embu Water and Sanitation Co. Ltd
P.O. Box 2142-60100
EMBU

Alternatively, the completed tenders may be deposited at the Tender Box located at the company head office located off Embu Meru Road Kenya National Library on or before *2nd June 2016 at 12.00 noon.*

14.0 DEADLINE FOR SUBMISSION OF TENDERS

- 14.1 Tenders must be received by the company at the address specified above not later than 12.00 noon. On the date specified in the letter of invitation.
- 14.2 The company may at its discretion, extend the deadline for submission of tenders by issuing an amendment in accordance with clause 6 hereof. In which case, all rights and obligations of the company and the Tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

15.0 LATE TENDERS

- 15.1 Any tender received by the company after the deadline for submission of tenders prescribed by the company in accordance with clause 14 hereof will be rejected and opened to obtain the Tenderer's address and returned.

16.0 MODIFICATION AND WITHDRAWAL OF TENDERS

16.1 The tenderer may modify or withdraw his tender provided that the modification or notice of withdrawal is received in writing by the procuring entity prior to the prescribed deadline for submission of tenders.

16.2 The tenderer's modification or notice of withdrawal shall be prepared, sealed marked and delivered in accordance with the provisions of clause 16.0 hereof for the submission of tenders with the envelopes additionally marked "MODIFICATION" OR "WITHDRAWAL" as appropriate.

16.3 Subject to clause 16.1 hereof, no tender may be modified subsequent to the deadline for submission of tenders.

16.4 Withdrawal of tender during the interval between the deadline for submission of tender and the expiration of the period of tender validity will result in the forfeiture of the Tender Security Pursuant to Clause 11.5 a hereof.

17.0 TENDER OPENING AND EVALUATION

17.1 The company will open all tenders submitted by the tenderers

17.2 At the tender opening, EWASCO will announce the tenderer's name. Tender price and such other details as the company may consider appropriate and withdrawals if any

18.0 PROCESS TO BE CONFIDENTIAL.

18.1 After the closing date for the submission of tenders, information relating to the examination, clarification, evaluation and comparison of tenders and recommendations concerning the award of the contract will not be disclosed to tenderer's (or to the person not officially concerned with such process) until the award of the Contract to the successful tenderer has been announced.

18.2 Any efforts by a tenderer to influence the company in the process of examination, clarification, Evaluation and comparison of tenders and in decisions concerning award of contract may result in rejection of tender received from tenderer.

19.0 CLARIFICATION OF TENDERS.

To assist in the examination, evaluation and comparison of tenders, EWASCO may ask tenderer's individually for clarification or further details of the information contained therein. Similarly the EWASCO may seek additional details of their tender, including breakdown of unit rates and prices.

The request for clarification and the response shall be in writing but no change in price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the company during the evaluation of their tenders in accordance with clause 21 thereof.

20.0 DETERMINATION OF RESPONSES.

- 20.1 Prior to the detailed evaluation of tenders, EWASCO will determine whether each tender is substantially responsive to the requirement of the tender documents.
- 20.2 For the purpose of this clause substantially responsive tender is one that conforms to all the Terms, conditions and specifications of the Tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, of performance of works or which limits in any substantial way, inconsistent with the tender documents, the company's right or tenderer's obligation under the contract and the rectification of which deviation or reservation may be to the disadvantage of other tenderer's presenting substantially responsive tenders at reasonable prices.
- 20.3 If the tender is not substantially responsive to the requirement of the Tender documents it will be rejected by the company, and may not subsequently be made responsive by the tenderer having corrected or withdrawn the non-confirm deviation or reservation.

21.0 CORRECTION OF ERRORS.

- 21.1 Tenders determined to be substantially responsive will be checked by the company for any arithmetical error and if any is found it will be corrected as follows:
- (a) Where there is a discrepancy between amounts in figures and the amount in words, the amount in words will govern.
 - (b) Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit rate and quantity, the unit rate as quoted will govern unless in the opinion of EWASCO finds that there is an obvious gross misplacement of the decimal point in the unit rate in which even the total amount as quoted will govern and the unit will be corrected.
- 21.2 The amount stated in the form off tender will be adjusted by EWASCO in accordance with the above procedure for the correction of errors and with the concurrence of the tenderer's, shall be considered as binding upon the tenderer's. if the tenderer's does not accept the correct amount of tender he will be deemed to have withdrawn his tender during the period of tender validity and his tender during the period of tender validity and his tender security will be forfeited in accordance with clause 11.5C.

22.0 NOTIFICATION OF AWARD

- 22.1 Prior to the expiration of the period of the tender validity EWASCO will notify the unsuccessful and successful tenderer in writing.
- 22.2 The notification of the award to the successful tenderer will not constitute the formation of the contract until 14 days have elapsed subject to the receipt of tenderer's acceptance, provision of performance security bond and if there is no appeal by any of the participating tenderer's.
- 22.3 Simultaneously on issuance of the notification of the award to the successful tenderer that its tender had been accepted, it will send the tenderer and their furnishing of the performance

security pursuant to clause 24, EWASCO will promptly notify each unsuccessful tenderer and EWASCO will discharge their tender security pursuant to clause 11.0.

23.0 SIGNING OF CONTRACT

23.1 At the same time as the EWASCO notifies the successful tenderer that its tender has been accepted, it will send the tenderer the contract form provided in the tender document or in any other form acceptable to the procuring entity and will discharge their tender security pursuant to clause 11.0.

23.2 Within thirty (30) days of receipt of the contract document, the successful tenderer shall sign and date the contract and return it to the EWASCO within thirty (30) days from the date of notification of award.

24.0 SIGNING OF CONTRACT

24.1 Within thirty (30) days of the receipt of the notification of Award from EWASCO, the successful tenderer shall furnish the performance security in accordance with the conditions of contract, in the performance security form provided in the tender document or in any other form acceptable to EWASCO.

24.2 Failure of the successful tenderer to comply with requirements of clause 23.0 and 24.0 shall constitute sufficient grounds for the annulment of the award and forfeiture of tender security, in which even the procuring entity may make the award to the next lowest evaluated tenderer or call for a new award.

25.0 SCHEDULE OF REQUIREMENTS

25.1 Appended below are details of cover and evaluation guidelines.

25.1 MANDATORY REQUIREMENTS

25.1.1 Must submit copies of the following documents:

- i. PIN Certificates
- ii. Current Tax compliance Certificates.
- iii. Certificate of Registration/ Incorporation
- iv. Must have done in the year **2015** or **2016** minimum gross premium written of Kshs. 200,000,000 (Two Hundred Million)
- v. Must have done in the year **2015** or **2016** medical insurance premium of Kshs. 50,000,000 (Fifty Million.)
- vi. Must provide a premium financing agreement for ten months at a competitive rate with a commercial bank.
- vii. Tender's to organize premium financing from a reputable Financial Institution at a very competitive interest rate. Confirm that payments of premium will be made in 10 (ten) equal installments and prorated for any late membership registration. Confirm that

Tenderer's submit details of the Premium Financing at the time of submission of the bids documents. Premium financing will be one of the key evaluation criteria.

viii. Duly Completed Tender Securing Declaration Form.(The form is attached to this tender document)

25.1.2 Must provide a copy of a current registration certificate from the Commissioner of Insurance showing that they are registered Medical Insurance Providers.

25.1.3 Must attach company profile.

25.1.4 Must have provided Medical Insurance Cover for the last five years.
Must attach a list of five largest Medical Insurance schemes accounts they currently cover whose premium is over Kshs. 5Million.

25.1.6 Must attach certified audited accounts for 2014, 2015 and 2016.

25.2 SCOPE OF COVER AND EVALUATION CRITERIA

25.2.4 IN PATIENT

25.2.5 Premium cover- the cover will be based on payment of premium for the specified insured benefits as per the options in schedule 1 (27.1). (20 marks)

25.2.6 Give premium cover that includes the following:

- All the inpatient benefits for the cover (Provide a list for the same) (15 marks)
- All the inpatient unique or added values for the cover (Provide a list for the same) (10 marks)
- State the age covered and procedures and/or requirements to include age limits(2 marks)

25.2.7 Provide details of the inpatient management (12 marks)

25.2.8 Provide a list of all excluded conditions (exclusions). What are the requirements in case you cover them? (6 marks)

25.2.9 Provide a list of the service providers. (Provide written confirmation from the providers stated) State flexibility to include other preferred service providers not in the list and also indicate how long it would take to include them if so whether the number is limited (10 marks)

25.2.10 Provide a list of ten of your corporate clients and their contacts (5 marks)

25.2.12 State whether there are requirements for any medical checkups before joining the scheme and if so whether such costs are covered by yourselves (5 marks)

25.2.13 Provide service performance levels for inpatients schemes stating:
(i) Time frame for settlement of approved claims to providers.

- (ii) Time frame for registration of newborn babies and new members
- (iii) Time frame for informing members/company of inpatient cases with excluded conditions (10 marks)

25.2.14 Provide power of Attorney to confirm the litigation history (3 marks)

25.2.15 The business questionnaire must be fully filled and signed (2 marks)

CUT OFF POINT WILL BE 70 MARKS FOR ONE TO PROCEED TO THE NEXT EVALUATION STAGE.

25.2.16 AWARD OF CONTRACT

Based on the evaluation, the Bidders will be ranked in order of priority ranked from top; number one and two. Those ranked lower than two will not be considered thereafter. The contract will then be awarded to one of the two who accepts the lowest quotation given by any of the two. The priority of offer will follow the ranking order.

26.1 ENROLMENT

26.3.1 To become a member an employee has to complete an application form. After which identification document is issued by the scheme administrator. These documents are recognized throughout the scheme administrator network of providers.

26.3.2 The scheme administrator will further issue all members with a Medical card or smart card. This will contain the photograph and member details and will be used during all visits to hospitals by the members of dependant. This will serve as a member reference point in our patient benefit utilization.

26.4 General procedures of receiving treatment.

26.4.1 When an employee or a dependant falls sick he/she will be required to visit the appointed provider directly on identifying him/herself with a scheme Administrator card.

26.4.2 Chronic conditions and medication are covered in this scheme. However all members/dependant with chronic conditions will be required to register themselves on the chronic medication. The treatment of chronic conditions is treated as an ongoing therapy. The doctor will therefore make a running prescription for medicine once to be used throughout for 12 months as such members will walk straight to the appointed chemists to collect their prescribed medicine once every month without necessarily having to go through the Doctor.

26.4.3 For pediatric and gynecological cases, members will be at liberty to visit the approved doctors directly without referral from general practitioners.

SCHEDULES

27.1 SCHEDULE 1: ANNUAL LIMITS PER FAMILY

CATEGORY	Annual limit per family	Standard Premium Payable	Enhanced Premium Payable
Level 1	1,000,000	.....	.....
Level 2	850,000	.....	.....
Level 3	750,000	.....	.....
Level 4	650,000	.....	.....
Total		KSHS.	KSHS.

IN-PATIENT OPTION II

CATEGORY	Annual limit per family	Standard Premium Payable	Enhanced Premium Payable
Level 1	900,000	.....	.....
Level 2	800,000	.....	.....
Level 3	700,000	.....	.....
Level 4	600,000	.....	.....
Total		KSHS.	KSHS.

IN-PATIENT OPTION III

CATEGORY	Annual limit per family	Standard Premium Payable	Enhanced Premium Payable
Level 1	800,000	.....	.....
Level 2	700,000	.....	.....
Level 3	600,000	.....	.....
Level 4	500,000	.....	.....
Total		KSHS.	KSHS.

OUTPATIENT OPTION I

CATEGORY	Annual limit per family
Level 1,2,3 &4	Ksh. 30,000
Total	
OUTPATIENT OPTION II	
CATEGORY	Annual limit per Person
Level 1,2,3 &4	Ksh. 30,000
Total	

OUTPATIENT OPTION III

CATEGORY	Annual limit per family
Level 1,2,3 &4	Ksh. 40,000
Total	
OUTPATIENT OPTION IV	
CATEGORY	Annual limit per Person
Level 1,2,3 &4	Ksh. 40,000
Total	

OUTPATIENT OPTION V- FUND MANAGEMENT

CATEGORY	Annual limit per family
Level 1,2,3 &4	Ksh. 30,000
Total	

OUTPATIENT OPTION VI- FUND MANAGEMENT

CATEGORY	Annual limit per Person
Level 1,2,3 &4	Ksh. 30,000
Total	

OUTPATIENT OPTION VII- FUND MANAGEMENT

CATEGORY	Annual limit per family
Level 1,2,3 &4	Ksh. 40,000
Total	

OUTPATIENT OPTION VIII- FUND MANAGEMENT	
CATEGORY	Annual limit per Person
Level 1,2,3 &4	Ksh. 40,000
Total	

Maternity Benefit per family

Levels 2, 3, and 4 to have a limit of;

Option I Ksh.40, 000

Option II Ksh.50, 000

Option 1II Ksh.100, 000

NOTE: bidders can also give an offer which is outside our options given, for considerations.

27.2 SCHEDULE II

27.3 CATEGORIZATION OF MEMBERSHIP

	Principal member	spouse	children	Total family pop.
1. Level 1	11	1	-	12
2. Level 2	7	5	11	23
3. Level 3	20	17	27	64
4. Level 4	52	45	87	184
Total Pop.	90	68	125	283

27.3.0 SCHEDULE III

27.3.1 BREAKDOWN OF MEMBERSHIP

LEVEL	FAMILY SIZE	FREQUENCY	TOTAL POPULATION
LEVEL 1	M	10	10
	M+1	1	2
LEVEL 2	M	2	2
	M+1	1	2
	M+3	1	4
	M+4	3	15
LEVEL 3	M	2	2
	M+1	3	6
	M+2	6	18
	M+3	7	28
	M+4	2	10

LEVEL 4	M	5	5
	M+1	6	12
	M+2	10	30
	M+3	21	84
	M+4	7	35
	M+5	3	18
Total Population			283

28.0 SPECIAL CONDITIONS OF CONTRACT

1. Section 30.0
2. Section 31.0
3. Section 32.0
4. Section 33.0
5. Section 34.0
6. Section 35

Tender to be filled by the tenderer

Tender security form is the format to be used.

Contract form is for information only

Performance security form is for information only

Bank Guarantee for advance payment is for information only.

Declaration Form is to be filled by the tenderer.

NOTE

The tenderers to submit two sets of tender documents;

- i. Technical Tender documents (Original and Copy)
- ii. Financial Document (Original and Copy)

29.0 GENERAL CONDITIONS OF CONTRACT

1. Definitions

In this contract, the following terms shall be interpreted as indicated.

“The contract” Means the agreement entered into between the procuring entity and the tendered as recorded in the contract form signed by the parties, including all attachment and appendices there for all documents incorporated by reference therein.

- a) “The contract Price” means the price payable to the tendered under the contract for the full and proper performance of its contractual obligations.
- b) “The goods” means all the equipment, machinery, and/or other materials which the tendered is required to supply to the procuring entity under contract.
- c) “The procuring entity” means the organization purchasing goods/services under this contract.
- d) “The tendered” means the individual or firm supplying the goods /offering services under this contract.
- e) “The word Services “means the medical care services under this contract.

2. APPLICATION.

- 2.1 These general conditions shall apply in all contracts made by the procuring entity for the procurement of goods.

3. COUNTRY OF ORIGIN

- 3.1 For purpose of this clause, “origin” means the place where goods were mined, grown, or produced.
- 3.2 The origin of goods and services is distinct from nationality of the tender.

4. STANDARDS

The goods supplied under this contract shall conform to the standard mentioned in the technical specifications.

5. USE OF CONTRACT DOCUMENTS AND INFORMATION

- 5.1 The candidate shall not, without the procuring entity’s written consent, disclose the contract or any provision there of or any specification, plan drawing, pattern sample, or information furnished by or on behalf of the procuring entity in connection there with to any person other than a person employed by the tenderer in the performance of the contract.
- 5.2 The tenderer shall not, without the procuring entity’s prior written consent, make use of any document or information enumerated in paragraph 5.1 above.
- 5.3 Any document other than the contract itself, enumerated in paragraph 5.1 shall remain the property of the procuring entity and shall be returned (all copies) to the procuring entity on completion of the tender’s performance under the contract if so required by the procuring entity.

6. PATENT RIGHTS

- 6.1 The Tenderer shall indemnify the procuring entity all third-day claims of infringement of patent, trademark, or industrial design rights arising from use of the goods/services or any part thereof in the procuring entity's country.

7. PERFORMANCE SECURITY

- 7.1 Within thirty (30) days of receipt the notification of contract award, the successful tenderer shall furnish to the procuring entity performance security in the amount 10% of the total contract price.
- 7.2 The proceeds of the performance security shall be payable to the procuring entity as compensation for any loss resulting from the tenderer's failure to compete its obligation under the contract.
- 7.3 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the procuring entity and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the procuring entity in the form provided in the tender documents.
- 7.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance obligations under the contract, including any warrant obligations, under the contract.

8 INSPECTION AND TESTS

- 8.1 The procuring entity or its representative shall have the right to inspect and /or to test the goods to confirm their conformity to the contract specifications. The procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representative retained for these purpose.
- 8.2 The inspection and tests may be conducted on the premises of the tenderer or its sub contractor(s), at point of delivery, and or at the goods final destination. If conducted on- the premises of the tender or its subcontractor (s) all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no cost to the procuring entity.

Should any inspected or tested goods fail to conform to the specifications, the procuring entity may reject the goods and the tenderer shall either replace the rejected goods or make alterations necessary to meet specification requirement free of cost to the procuring entity

The goods supplied under the contract shall conform to the standard mentioned in the technical specifications.

8.3 The procuring entity's right to inspect ,test and where necessary ,reject the goods after the goods arrival shall in no way be limited or waived by reason of the goods having previously been inspected ,tested, and passed by the procuring entity or its representative prior to the goods delivery.

8.4 Nothing in paragraph 8 shall in any way release the tenderer from any warranty or other obligations under this contract.

9.0 PACKING

9.1 The tenderer shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination as indicated in the contract

9.2 The packing, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract.

10 DELIVERY AND DOCUMENTS

10.1 Delivery of the goods/services shall be made by the tenderer in accordance with the terms specified by procuring entity in its schedule of requirements and the special conditions of contract.

11 INSURANCE

11.1 The goods/services supplied under the contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the special conditions of contract.

12 PAYMENT

12.1 The method and condition of payment to be made to the tenderer under this contract shall be specified in the special conditions of the contract.

12.2 Payments shall be made accordingly by the procuring entity as specified in the contract.

13 PRICES

13.1 Prices charged by the tenderer of goods delivered and services performed under this contract, shall not with the exception of any price adjustment authorized in special conditions of contract, vary from the prices by the tenderer in its tender.

14 ASSIGNMENT

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

15 SUB-CONTRACTS

- 15.1 The tenderer shall notify the procuring entity in writing of all subcontracts awarded under this contract if not already specified in the tender. Such notification in the original tender or later shall not relieve the tenderer from any liability or obligation under the contract.

16 TERMINATION FOR DEFAULT

- 16.1 The procuring entity may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the tenderer terminate this contract in the whole or in part.
- a) If the tenderer fails to deliver any or all of the goods/services within the period (s) specified in the contract, or within any extension thereof granted by the procuring entity.
 - b) If the tenderer fails to perform any other obligation (s) under the contract.
 - c) If the tenderer in the judgment of the procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

- 16.2 In the event the procuring entity terminates the contract in the whole or in part, it may procure upon such items and in such manner, as it deems appropriate, goods similar to those undelivered, and the tenderer shall be liable to the procuring entity for any excess costs for such similar goods.

17 LIQUIDATED DAMAGES

- 17.1 If the tenderer fails to deliver any or all of the goods within the periods(s) specified in the contract, the procuring entity shall without prejudice to its other remedies under the contract ,deduct from the contract prices liquidated damages sum equivalent to 0.5%of the delivered price of the delayed goods up to maximum deduction of 10%of the delayed goods. After this the tenderer may consider termination of the contract.

18 RESOLUTION OF DISPUTES

- 18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.
- 18.2 if, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an a greed national arbitration forum.

19 LANGUAGE AND LAW

- 19.1 The language of the contract and law governing the contract shall be English language and the laws of Kenya respectively unless other stated.

20.1 FORCE MAJEURE

20.1 The tenderer shall not be liable for forfeiture of its performance security, or termination for default if and the extent that the delay in performance or other failure to perform its obligation under the contract is the result of an event of force Majeure.

Tender Form

Form of Tender

Date

To:

Gentlemen and/or Ladies:-

1. Having examined the Tender documents including Addenda Nos..... (Insert numbers) the receipt of which is hereby duly acknowledged, we the undersigned, offer to and deliver (.....) in conformity with the said Tender document for the sum of

Total Tender {amount in words and figures}. We undertake, if our tender is accepted, to deliver the goods in accordance with the delivery specified in the Bills of Rates Section.

2. If our Tender is accepted, we will obtain the guarantee of a bank in a sum equivalent to Percent of the contract price for the due performance of the contract.

3. We agree to abide by this Tender for a period of 120 days from the date or fixed for Tender opening of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

4. Until a formal contract is prepared and executed this together with your written acceptance thereof and your notification of award shall constitute a binding contract between us.

5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this day of 20.....

.....
[Signature]

.....
[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

TENDER SECURITY FORM

Whereas..... (Name of tenderer)
(Hereinafter called “the tenderer” has submitted its bid dated.....
[Date of submission of bid] for the supply of
(name and/or description of the goods)
(Hereinafter called the tender).....

KNOW ALL PEOPLE by these presents that We
..... Of.....
.....

having our registered office at(hereinafter called “the
bank”) are at Bound unto(name of procuring entity) (therein after called
the procuring entity) in the sum of [.....] for which payment well
and truly to be made to the said procuring entity, the Bank binds itself, its successors, and assigns by
these presents. Sealed with the Common Seal of the said Bank this _____ day
_____ 20 _____

THE CONDITIONS of this obligation are:-

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

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

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

[Signature of the Bank]

CONTRACT FORM

THIS AGREEMENT made the ...day of.....20between [name of Procurement entity] of [Country of Procurement entity] (Herein after called “the Procuring entity”) of the one part and [name of tenderer] of [City and country of tenderer] (hereinafter called “the tenderer”) of the other part:

WHEREAS the Procuring entity invited tenders for certain goods and services.

Viz (Brief description of goods) and has accepted a tender by the tenderer for the supply of those goods in the sum of (contract price in words and figures) hereinafter called “the contract price”).

NOW THIS AGREEMENT WITNESSTH AS FOLLOWS:-

- 01. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
- 02. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz:
 - (a) the Tender Form and the Price Schedule submitted by the tenderer;
 - (b) the Schedule of Requirements
 - (c) the General Conditions of Contract
 - (d) the Special Conditions of Contract; and
 - (e) any addendum issued
 - (f) the Procuring entity’s Notification of Award
- 03. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer covenants with the Procuring entity to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
- 04. The Procuring entity hereby covenants to pay the tenderer in consideration of the provision of the services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written

Signed, sealed, delivered by the (for the Procuring entity)

Signed, sealed, delivered by the (for the tenderer) in the presence of

PERFORMANCE SECURITY FORM

To:
[Name of procuring entity]

WHEREAS [Name of tenderer]
(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No.
.....
dated _____ 20 _____ to supply
[description of goods/services] (Hereinafter called "the Contract")

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

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

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

This guarantee is valid until the _____ day of _____ 20 ____

Signature and seal of the Guarantors _____
[Name of bank of financial institution]

[Address] _____

[Date] _____

34. BANK GUARANTEE FOR ADVANCE PAYMENT

To:

(Name of procuring Entity)

(Name of Tenderer)

Gentlemen and/or Ladies

In accordance with the payment provision included in the special conditions of contract which amends the general Condition of Contract to provide for advance payment.

.....

(Amount of guarantee in figures and words)

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

This guarantee shall remain valid and in full effect from the date of the advance on payment received by the tender under the contract until Date

Yours truly,

Signature and Seal of Guarantors

.....

(Name of Bank or Financial Institution

(Address)

(Date)

35.0 DECLARATION FORM

We hereby confirm that the above information is correct and true to the best of our knowledge.

We further declare that should we be awarded this Tender and later the above information turns out to be untrue, we shall indemnify the company the full cost of the contract, the advertisement charges of this tender plus all other damages that accrue due to false declaration.

Name and address of Company

M/S

P.O. Box

Town

Telephone No.

Fax No.

Email Address

Signature

Name in full;

Position

on

Official rubber stamp

Date

36.0 TENDER SECURING DELARATION FORM

[The Tenderer shall fill in this Form in accordance with the instructions indicated.]

Date: *[insert date]*
Tender No.: *[insert number]*

To: *[insert name of Procuring Entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, tenders must be supported by a Tenders-Securing Declaration.

We accept that we will automatically be suspended from being eligible for tendering in any contract with the Procuring Entity for the period of time as determined by the Authority if we are in breach of our obligation(s) under the tender conditions, because we:

- (a) have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or
- (b) does not accept the Procuring Entity's corrections of arithmetic errors in accordance with the Instructions to Tenderers; or
- (c) having been notified of the acceptance of our Tender by the Procuring Entity during the period of Tender validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of (i) our receipt of your notification to us of the name of the successful Tenderer; or (ii) twenty-eight (28) days after the expiration of our Tender validity period.

Signed: *[insert signature of person whose name and capacity are shown]*

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

In the capacity of *[insert legal capacity of person signing the Tender Securing Declaration]*

Duly authorized to sign the Tender for and on behalf of: *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Tender Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender.]