



**THARAKA NITHI COUNTY  
GOVERNMENT**

**TENDER NO: TNCG/P/02/2019-2020/21**

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**SUPPLY AND DELIVERY OF  
PHARMACEUTICALS  
TWO YEARS TERM CONTRACT  
FINANCIAL YEARS 2019-2020/2020-2021**

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### Introduction

- 1.1 This Standard Tender Document has been prepared for use by public entities in Kenya
- 1.2 The following general directions should be observed when using the document.
  - (a) Specific details should be furnished in the Invitation to Tender and in the special conditions of contract. The final documents to be provided to the tenderers should not have blank spaces or give options
  - (b) The Instructions to Tenderers and the general conditions of contract should remain unchanged. Any necessary amendments to these parts should be made through the special conditions of contract and the appendix to instructions to tenderers.
- 1.3
  - (a) Information contained in the Invitation to Tender shall conform to the data and information in the tender documents to enable potential tenderers to decide whether or not to participate and shall indicate any important tender requirements.
  - (b) The Invitation to Tender shall be issued as an advertisement in accordance with the regulations or a letter of invitation addressed to tenderers who have expressed interest following the invitation for expression of interest for which the invitation is issued.

**SECTION I INVITATION TO TENDER**

**DATE: 11/06/2019**

**TENDER REF NO: TNCG/P/02/2019-2020/21**

**TENDER NAME : SUPPLY AND DELIVERY OF  
PHARMACEUTICALS**

- 1.1 The **County Government of Tharaka Nithi** invites sealed bids from eligible candidates for **Supply and Delivery of PHARMACEUTICALS**.
- 1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at the **Tharaka Nithi county Government-Supplies Chain Management Office P.O Box 10-60406 Kathwana** during normal working hours.
- 1.3 A complete set of tender documents may be obtained by interested candidates from the county website at [www.tharakanithi.go.ke](http://www.tharakanithi.go.ke).
- 1.4 Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at the County headquarters, Kathwana or be addressed to **The County Secretary, Tharaka Nithi County Government, P.O Box 10-60406** so as to be received on or before Tuesday, 25<sup>th</sup> June 2019 at 11.00 Am.
- 1.5 Prices quoted should be net inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for 150 days from the closing date of the tender.
- 1.6 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at **The County Headquarter boardroom, Kathwana**.

**For: The County Secretary,  
Tharaka Nithi county government,  
P.O Box 10, 60406**

## SECTION II - INSTRUCTIONS TO TENDERERS

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## **SECTION II - INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible Tenderers**

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.
- 2.1.2 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### **2.2 Eligible Goods**

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

## **2.3 Cost of Tendering**

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

2.3.2 The price to be charged for the tender document shall not exceed Kshs.5,000/=

2.3.3 All firms found capable of performing the contract satisfactorily in accordance with the set prequalification criteria shall be prequalified.

## **2.4. The Tender Document**

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

- (i) Invitation to Tender
- (ii) Instructions to tenderers
- (iii) General Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Bank Guarantee for Advance Payment Form
- (xii) Manufacturer's Authorization Form
- (xiii) Confidential Business Questionnaire

2.4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## **2.5 Clarification of Documents**

- 2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.
- 2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.6 Amendment of Documents**

- 2.6.1 At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.
- 2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.
- 2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

## **2.7 Language of Tender**



2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## 2.8 Documents Comprising of Tender

2.8.1 The tender prepared by the tenderers shall comprise the following components

- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
- (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
- (d) tender security furnished in accordance with paragraph 2.14

## 2.9 Tender Forms

2.9.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

## 2.10 Tender Prices

2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.

2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22

2.10.4 The validity period of the tender shall be 150 days from the date of opening of the tender.

## 2.11 **Tender Currencies**

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## 2.12 **Tenderers Eligibility and Qualifications**

2.12.1 Pursuant to paragraph 2.1. the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and

its qualifications to perform the contract if its tender is accepted.

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

- (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-

stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## **2.13 Goods Eligibility and Conformity to Tender Documents**

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) a detailed description of the essential technical and performance characteristic of the goods;
- (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity; and
- (c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's

satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **2.14 Tender Security**

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

2.14.2 The tender security shall be in the amount of 0.5 – 2 per cent of the tender price.

2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.22

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

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

- (a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or

- (b) in the case of a successful tenderer, if the tenderer fails:
  - (i) to sign the contract in accordance with paragraph 2.27 or
  - (ii) to furnish performance security in accordance with paragraph 2.28

## **2.15 Validity of Tenders**

2.15.1 Tenders shall remain valid for 150 days or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.

2.15.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## **2.16 Format and Signing of Tender**

2.16.1 The Procuring entity shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

2.16.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

2.16.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which

case such corrections shall be initialed by the person or persons signing the tender.

## **2.17 Sealing and Marking of Tenders**

2.17.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes shall then be sealed in an outer envelope.

2.17.2 The inner and outer envelopes shall:

(a) Be addressed to the Procuring entity at the address given in the Invitation to Tender:

(b) Bear, tender number and name in the Invitation for Tenders and the words, “DO NOT OPEN BEFORE,” Tuesday, 25<sup>th</sup> June 2019 at 11.00 Am.

2.17.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

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

2.18.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than Tuesday, 25<sup>th</sup> June 2019 at 11.00 Am.

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

## **2.19 Modification and Withdrawal of Tenders**

- 2.19.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring Entity prior to the deadline prescribed for submission of tenders.
- 2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.19.3 No tender may be modified after the deadline for submission of tenders.
- 2.19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7
- 2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.19.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.20 Opening of Tenders**

- 2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at 11.00 Am, Tuesday 25<sup>th</sup> June 2019 and in the location specified in the Invitation to Tender.

The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.20.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.

2.20.3 The Procuring entity will prepare minutes of the tender opening.

## **2.21 Clarification of Tenders**

2.21.1 To assist in the examination, evaluation and comparison of tenders the Procuring entity may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.22 Preliminary Examination**

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

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



rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.22.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non conformity.

## **2.23 Conversion to Single Currency**

2.23.1 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.24 Evaluation and Comparison of Tenders**

2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

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

2.24.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after

notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Preference**

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%

## **2.26 Contacting the Procuring entity**

2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.26.2 Any effort by a tenderer to influence the Procuring entity in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

## **2.27 Award of Contract**

### **(a) Post-qualification**

2.27.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.27.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.27.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**(b) Award Criteria**

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

**(c) Procuring entity's Right to Vary quantities**

2.27.5 The Procuring entity reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions

**(d) Procuring entity's Right to Accept or Reject Any or All Tenders**

2.27.6 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 the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring entity's action

**2.28 Notification of Award**

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

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

## **2.29 Signing of Contract**

2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

2.29.2 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.29.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

## **2.30 Performance Security**

2.30.1 Within Thirty (30) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.

2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

## **2.31 Corrupt or Fraudulent Practices**

2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;

(i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of

a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (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;

2.31.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

2.31.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

## **Appendix to Instructions to Tenderers**

### **Notes on the Appendix to the Instruction to Tenderers**

1. The Appendix to instructions to tenderers is intended to assist the procuring entity in providing specific information in relation to the corresponding clause in the instructions to Tenderers included in Section II and has to be prepared for each specific procurement.
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the goods to be procured and the tender evaluation criteria that will apply to the tenders.
3. In preparing the Appendix the following aspects should be taken into consideration;
  - (a) The information that specifies and complements provisions of Section II to be incorporated
  - (b) Amendments and/or supplements if any, to provisions of Section II as necessitated by the circumstances of the goods to be procured to be also incorporated
4. Section II should remain unchanged and can only be amended through the Appendix.
5. Clauses to be included in this part must be consistent with the public procurement law and the regulations.

## Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement, supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

<b>INSTRUCTIONS TO TENDERERS REFERENCE</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
2.1.1	<i>Open</i>
2.14.1	<i>N/A</i>
2.18.1	<i>Tuesday, 25th June 2019</i>
2.29.1	<i>As in 2.18.1 above</i>
2.29.1	<i>N/A</i>

*(Complete as necessary)*

**SECTION III: GENERAL CONDITIONS OF CONTRACT**

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

### **3.1 Definitions**

3.1.1 In this Contract, the following terms shall be interpreted as indicated:-

- (a) “The Contract” means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) “The Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) “The Procuring entity” means the organization purchasing the Goods under this Contract.
- (e) “The Tenderer’ means the individual or firm supplying the Goods under this Contract.

### **3.2 Application**

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

### **3.3 Country of Origin**

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

### **3.4 Standards**

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

### **3.5 Use of Contract Documents and Information**

3.5.1 The tenderer shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

### **3.6 Patent Rights**

3.6.1 The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Procuring entity's country

### **3.7 Performance Security**

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

- 3.7.2 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 complete its obligations under the Contract.
- 3.7.3 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.
- 3.7.4 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 warranty obligations, under the Contract

### **3.8 Inspection and Tests**

- 3.8.1 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 representatives retained for these purposes.
- 3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.
- 3.8.4 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 equipment having previously been

inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.9 Packing**

3.9.1 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.

3.9.2 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

### **3.10 Delivery and Documents**

3.10.1 Delivery of the Goods 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

### **3.11 Insurance**

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

### **3.12 Payment**

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

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

### **3.13 Prices**

- 3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.
- 3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 3.13.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

### **3.14. Assignment**

- 3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent

### **3.15 Subcontracts**

- 3.15.1 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

### **3.16 Termination for default**

- 3.16.1 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 whole or in part
- (a) if the tenderer fails to deliver any or all of the goods 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

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

### **3.17 Liquidated Damages**

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(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 items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

### **3.18 Resolution of Disputes**

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 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 agreed national or international forum, and/or international arbitration.

### **3.19 Language and Law**

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

### **3.20 Force Majeure**

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



## **SECTION IV - SPECIAL CONDITIONS OF CONTRACT**

### **Notes on Special Conditions of Contract**

The clauses in this section are intended to assist the procuring entity in providing contract-specific information in relation to corresponding clauses in the General Conditions of Contract.

The provisions of Section IV complement the General Conditions of Contract included in Section III, specifying contractual requirements linked to the special circumstances of the procuring entity and the goods being procured. In preparing Section IV, the following aspects should be taken into consideration.

- (a) Information that complement provisions of Section III must be incorporated and
- (b) Amendments and/or supplements to provisions of Section III, as necessitated by the circumstances of the goods being procured must also be incorporated.

**SECTION IV - SPECIAL CONDITIONS OF CONTRACT**

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.

42. Special conditions of contract as relates to the GCC

<b>REFERENCE OF GCC</b>	<b>SPECIAL CONDITIONS OF CONTRACT</b>
3.7.1	<i>N/A</i>
3.12.1	<i>Indicate terms of payment</i>
3.18.1	<i>Indicate resolutions of disputes</i>

*(Complete as necessary)*

## **SECTION V - TECHNICAL SPECIFICATIONS**

### **5.1 General**

- 5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc for the products they intend to supply
- 5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
- 5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
- 5.1.4 The tenderers are requested to present information along with their offers as follows:
- (i) Shortest possible delivery period of each product
  - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

## **5.2 PARTICULARS**

*[Text of Technical Specifications to be inserted in the tender documents by the Procuring entity, as applicable]*

## PHARMACEUTICALS

ITEM NO	ITEM DESCRIPTION	UNIT OF ISSUE	UNIT PRICE
1	Aceclofenac 100mg x 100	pkt	
2	Junior Aspirin 75mg x 1000	tin	
3	Ampiclox 500mg x 1000	tin	
4	BG Glutonin tabs	pkt	
5	Cetirizine 10mg x 100	pkt	
6	Cartel Forte x 100	pkt	
7	Cefadroxil 500gm x 1000	tin	
8	Diloxaride/Metronidazole Suspension	bottle	
9	Diloxanide/Metronidazole Tablets	tin	
10	Griveofoluin 125 mg	tin	
11	Flamoryl Tablets	tin	
12	Haemanitic Syrup 200ml	bottle	
13	Hyoscine botyl bromide 100 mg	tin	
14	Hyoscine botyl bromide 20mg injection	ampoules	
15	Meloxicam 7.5mg	pkt	
16	Neurobione Forte	pkt	
17	Neopeptine Drops	bottle	
18	Warfarin 5 mg Tabs	tin	
19	Ampiclox neonatal drops	bottle	
20	Betamethasone/neomycin eye/ear drops	bottle	
21	Chloromphenical eye drops	bottle	
22	Ciprofloxacin drops	bottle	
23	Diclofenac gel	tube	
24	Normal saline nasal drops	bottle	
25	Xtra derm cream	tube	
26	KY Jelly	tube	
27	Cough expectorant	bottle	
28	Anti acid suspension	bottle	
29	Methyl prednisolone injection	vials	
30	Ranitidine injection	vials	
31	Anti rabies injection	vials	
32	Carvedilol 6.25 mg	tin	
33	Losartan potassium 50 mg	pkt	

34	Acyclovir Tablets 400mg	<b>100s</b>	
35	Albendazole Tablets 400 gm	<b>1000s</b>	
36	Amitriptyline Tablets 25mg	<b>1000s</b>	
37	Amolodipine 5 mg + Valsartan 160 mg Tabs	<b>100s</b>	
38	Amlodipine tablet 5 mg	<b>100s</b>	
39	Amoxicillin Capsules 250 mg	<b>10s</b>	
40	Amoxillin capsules 250mg	<b>1000s</b>	
41	Aspirin Tablets 300 mg	<b>1000s</b>	

42	Atenolol Tablets 50 mg	<b>1000s</b>	
43	Azithromycin 500 mg	3s	
44	Beclomethasone Inhaler 0.1mg/ dose 200 doses	inhaler	
45	Cefixime tablets 400 mg	<b>10s</b>	
46	Cefuroxime Tablets 250 mg	<b>10s</b>	
47	Chlorpheniramine Tablets 4 mg	<b>1000s</b>	
48	Ciprofloxacin Tablets 250 mg	<b>100s</b>	
49	Codeine Phospate	<b>100s</b>	
50	cotrimoxazole Tablets 480 mg	<b>1000s</b>	
51	diazepam Tablets 5 mg	<b>1000s</b>	
52	diazepam tablets – 5 mg	<b>100s</b>	
53	diclofenac sodium tablets 50 mg	<b>1000s</b>	
54	diloxanide furoate tablets 500mg	<b>500s</b>	
55	doxycycline capsules 100 mg	<b>1000s</b>	
56	enalapril Tablets 5 mg	<b>100s</b>	
57	erythromycin tablets 250 mg	<b>1000s</b>	
58	ferrous sulph/folic acid tablets 200mg/400 mcg	<b>1000s</b>	
59	ferrous sulphate tablets 200 mg	<b>1000s</b>	
60	flucloxacillin capsules 250 mg	<b>1000s</b>	
61	flucloxacillin capsules 250 mg	<b>500s</b>	
62	folic acid tablets 5 mg	<b>1000s</b>	
63	folic acid tablets 5 mg	<b>100s</b>	
64	furosemide tablets 40 mg	<b>1000s</b>	
65	glibenclamide tablets 5 mg	<b>1000s</b>	
66	griseofulvin tablets 125 mg	<b>1000s</b>	
67	hydrochlorothiazide tablets 50 mg	<b>1000s</b>	
68	hyoscine butylbromide tablets 10 mg (f/c)	<b>1000s</b>	
69	ibuprofen tablets f/c 200 mg (scored)	<b>1000s</b>	
70	ketoconazole tablts 200 mg	<b>30s</b>	
71	loperamide capsules 2 mg	<b>100s</b>	
72	magnesium trisilicate tablets 370 mg	<b>1000s</b>	
73	metrormin tablets 500 mg	<b>1000s</b>	
74	methyl dopa tablets 250 mg	<b>1000s</b>	
75	metoclopramide tablets 10 mg	<b>100s</b>	
76	metronidazole tablets 200 mg	<b>1000s</b>	
77	nifedipine tablets s/r 20 mg	<b>1000s</b>	
78	omeprazole capsules 20 mg	<b>1000s</b>	
79	paracetamol tablets	<b>1000s</b>	
80	phenobarbitone tablets 30 mg	<b>100s</b>	
81	praziquantel tablets 600 mg	<b>100s</b>	
82	praziquantel tablets 600 mg	<b>1000s</b>	
83	prednisolone Tablets 5mg	<b>1000s</b>	
84	quinine sulphate tablets 300 mg (f/c scored)	<b>1000s</b>	

85	retinol (Vitamin A) palmitate capsules 50,000 IU	<b>500s</b>	
86	Salbutamol tablets 4 mg (Scored)	<b>1000s</b>	
87	tinidazole tablets 500 mg (f/c)	500s	
88	valproic acid tablets 200 mg	100s	
89	zinc sulphate tablets 20 mg	100s	
90	amoxillin oral suspension 125 ml/5ml	100ml	
91	Amoxicillin/clavulanic acid oral suspension 312.5 mg/5ml	100ml	
92	chlorpheniramine syrup 2 mg/ 5ml	5L	
<b>93</b>	cotrimoxazole sus 240 mg/5ml	50 ml	
<b>94</b>	erythromycin ethyl succ susp 125mg/5 ml (pfr)	100ml	
<b>95</b>	metronidazole susp 200mg /5 ml Nystatin oral sus 100,000 IU/ml	100ml 30ml	
<b>96</b>	ORS sachet for 500 ml low osmolality	100 sachets	
<b>97</b>	paracetamol susp 120 mg/5ml	5L	
<b>98</b>	salbutamol sulphate respirator (Nebulizing) solution 5mg/ml	10ml	
<b>99</b>	salbutamol syrup 2mg/5ml	100 ml	
<b>100</b>	sulbutamol inhaler 100 mcg/Actuation	can	
<b>101</b>	Adrenaline (epinephrine) inj 1 mg/1ml	amp	
<b>102</b>	Aminophylline inj 25 mg/ml, 10 ml amp	amp	
<b>103</b>	Artesunate inj 60 mg	5 vials	
<b>104</b>	Atropine sulphate inj 1 mg/ml	amp	
<b>105</b>	Benzathine penicillin inj 2.4 MU pfr	vial	
<b>106</b>	Benzyl penicillin inj 5 mu	vial	
<b>107</b>	Benzy ipenicillin inj 600 mg 1 MU pfr	vial	
<b>108</b>	Ceftazidime inj 1g	vial	
<b>109</b>	Ceftriaxone inj 1g (pfr)	vial	
<b>110</b>	Ceftriaxone inj 250 mg (pfr)	vial	
<b>111</b>	Chloramphenicol sod. Succ. Inj 1 g (pfr)	vial	
<b>112</b>	Chlorpheniramine inj 10 mg/ 1 ml	amp	
<b>113</b>	Chlorpromazine inj 25mg/ml, 2 ml	amp	
114	Dexamethasone inj 4mg/ml	amp	
115	Diazepam inj 5mg/ml, 2 ml amp	amp	
116	Diclofenac inj 25mg/ml, 3ml	amp	
117	Flucloxacillin inj 250 mg (pfr)	vial	
118	Frusemide inj 10mg/ml, 2ml	amp	
119	Gentamicin sulphate inj 10mg/ml, 2ml	amp	
120	Gentamicin sulphate inj 40mg/ml, 2ml	amp	
121	Glucose (dextrose) IV infusion 5%, 500 ml	bottle	
122	Glucose (dextrose) IV infusion 50%, 100 ml	bottle	
123	Glucose (dextrose) IV infusion 10%, (hypertonic)100 ml	bottle	
124	Glucose inj 50%, 50ml (dextrose)	bottle	

125	Heparin inj 5,000 IU/ml, 5ml	vial	
126	Hydralazine inj 20mg amp pfr	amp	
127	Hydrocortisone inj 100mg vial	vial	
128	Hyoscine butylbromide inj 20mg/ml	amp	
129	Insulin biphasic 30/70 100IU/ml, 10ml	vial	
130	Insulin soluble 100 IU ml, 10ml	vial	
131	Lidocaine (lignocaine) inj 1% 1mg/1ml 30ml	vial	
132	Magnesium sulphate inj 50% 10ml	amp	
133	Metoclopramide inj 5mg/ml, 2ml	amp	
134	Metronidazole inj 5mg/ml, 100ml	vial	
135	Oxytocin inj 10 IU/ 1ml	amp	
136	Paracetamol inj 10 mg/ml, 100ml	vial	
137	Phenobarbitone inj 200 mg/ml, 1 ml	amp	
138	Phytomenadione (Vit K) inj 2mg/ml, 0.2ml	amp	
139	Quinine dihyd inj 300mg/ml, 2ml	amp	
140	Sodium bicarbonate 8.4%, 10 ml	amp	
141	Sodium chloride IV infusion 0.9% 500ml (Normal saline)	bottle	
142	Sodium lactate co IV infusion, 500ml (Hartmans/Ringer-Lactate)	bottle	
143	Sodium Stibogluconate inj 100mg/ml, 100ml	amp	
144	Water for inj, 10 ml	vial	
145	Benzhexol tablets 5 mg	1000s	
146	Carbamazepine tablets 200mg	1000s	
147	Chlorpromazine tablets 100 mg	1000s	
148	Fluoxetine capsules 20mg	100s	
149	Flupenthixol decanoate – 20mg/MI	amp	
150	Fluphenazine decanoate inj 25mg/1ml	amp	
151	Haloperidol Decan inj 50 mg/ml, 1ml	amp	
152	Haloperidol tablets 5mg	1000s	
153	Phenytoin tablets 50mg	1000s	
154	Morphine inj 10mg/ml, 1ml	amp	
155	Morphine powder	100g	
156	Atracurium besylate inj 10mg/ml	amp	
157	Bupivacaine Hcl in dextrose inj 5mg amp	amp	
158	Halothane inhalation, 250ml	bottle	
159	Ketamine inj 50 mg/ml, 10ml	vial	
160	Neostigmine inj 2.5mg/ml, 1ml	vial	
161	Pancuronium bromide inj 2mg/ml, 2ml	amp	
162	Suxamethonium chloride inj 50mg/ml, 2ml	amp	
163	Thiopentone inj 500mg vial (pfr)	vial	
164	Benzyl benz emulsion 25% w/v application 50ml	bottle	
165	Calamine lotion 15% 50ml	bottle	
166	Clotrimazole cream 1% 20g	tube	



167	Clotrimazole pessary 200mg 3s	pack of 3s	
168	Hydrocortisone ointment 1% 15g	tube	
169	Paracetamol Suppositories 125mg	10S	
170	Silver sulphadiazine 1% Chlorhexidine Gluconate 0.2% cream 250 gJAR	jar	
171	Silver Sulphadiazine cream 1% 250g	jar	
172	Water based lubricant (KY Jelly) 42g	tube	
173	Gentamicin sulphate solution 0.3% w/v (eye/ear drops) 5ml	bottle	
174	Tetracycline eye ointment 1%, 3.5g	tube	
175	Tetracycline eye ointment 1%, 5g	tube	
176	Chlorhexidine gluconate sol 5%	5l	
177	Sodium hypochlorite solution 4-6%	5l	
178	Alcoholic disinfectant detergent	500ml	
179	Alcoholic disinfectant hand rub	75ml	
180	Ethanol denatured solution 70%	5l	
181	Glutaraldehyde 2% solution	5l	
182	Methylated spirit 96%	5l	
183	Povidone iodine solution 10%	1l	

**NOTE: Please quote as per our Unit of Issue**

**SECTION VI - SCHEDULE OF REQUIREMENTS**

Number (shipment)	Description	Quantity	Delivery schedule
			Weeks/months from _____ <sup>In 1</sup>

---

<sup>1</sup> The Procuring entity must specify here the date from which the delivery schedule will start. That date should be either the date of the contract award, or the date of contract signature, or the date of opening of letter of credit, or the date of confirmation of the Letter of Credit, as appropriate. The Tender Form should include only a cross reference to this Schedule.

**SECTION VII - PRICE SCHEDULE FOR GOODS**

Name of tenderer \_\_\_\_\_ Tender Number \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_  
 \_\_\_\_\_

1	2	3	4	5	6
Item	Description	Country of origin	Quantity	Unit price	Total Price EXW per item (cols. 4x5)

Signature of tenderer \_\_\_\_\_  
 \_\_\_\_\_

*Note:* In case of discrepancy between unit price and total, the unit price shall prevail.

## **SECTION VIII - STANDARD FORMS**

### **Notes on the sample Forms**

1. Form of Tender-The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.
3. Tender Security Form - When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.
4. Contract Form - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.
5. Performance Security Form - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.
6. Bank Guarantee for Advance Payment Form - When Advance payment is requested for by the successful bidder and agreed by the procuring entity, this form must be completed fully and duly signed by the authorized officials of the bank.
7. Manufacturers Authorization Form - When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.

### **8.1 FORM OF TENDER**

Date:.....  
Tender No.....

To:  
The County Secretary  
Tharaka Nithi County Government,  
P.O Box 10 Kathwana.

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 supply deliver, install and commission ( ..... computers and computer accessories in conformity with the said tender documents for the sum of ..... *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract , in the form prescribed by .....*( Tharaka Nithi County Government, P.O Box 10 Kathwana)*.

4. We agree to abide by this Tender for a period of ..... *[number]* days from the date 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.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

6. 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 an on behalf of \_\_\_\_\_

## 8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2(b) or 2 (c ) whichever applied to your type of business

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

<p><i>Part 1 – General:</i></p> <p>Business Name .....</p> <p>Location of business premises. .....</p> <p>Plot No..... Street/Road .....</p> <p>Postal Address ..... Tel No. .... Fax ..... E mail .....</p> <p>Nature of Business .....</p> <p>Registration Certificate No. .....</p> <p>Maximum value of business which you can handle at any one time – Kshs. .....</p> <p>Name of your bankers ..... Branch .....</p>
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	<p style="text-align: center;"><b>Part 2 (a) – Sole Proprietor</b></p> <p>Your name in full ..... Age .....</p> <p>Nationality ..... Country of origin .....</p> <ul style="list-style-type: none"> <li>• Citizenship details .....</li> <li>• .....</li> </ul>																								
	<p style="text-align: center;"><b>Part 2 (b) Partnership</b></p> <p>Given details of partners as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%;">Name</th> <th style="width: 20%;">Nationality</th> <th style="width: 30%;">Citizenship Details</th> </tr> </thead> <tbody> <tr> <td>Shares</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>		Name	Nationality	Citizenship Details	Shares				1.	.....	.....	.....	2.	.....	.....	.....	3.	.....	.....	.....	4.	.....	.....	.....
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	<p><b>Part 2 (c) – Registered Company</b></p>																								

	Private or Public ..... State the nominal and issued capital of company- Nominal Kshs. .... Issued Kshs. .... Given details of all directors as follows <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%;">Name</th> <th style="width: 30%;">Nationality</th> <th style="width: 20%;">Citizenship Details</th> </tr> </thead> <tbody> <tr> <td>Shares</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>5.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>		Name	Nationality	Citizenship Details	Shares				1.	.....	.....	.....	2.	.....	.....	.....	3.	.....	.....	.....	4.	.....	.....	.....	5.	.....	.....	.....
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	Date ..... Signature of Candidate .....																												

- If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

### 8.3 TENDER SECURITY FORM

Whereas ..... [*name of the tenderer*]  
(hereinafter called “the tenderer”) has submitted its tender dated ..... [*date of submission of tender*] for the supply, installation and commissioning of ..... [*name and/or description of the equipment*] (hereinafter called “the Tender”) ..... KNOW ALL PEOPLE by these presents that WE ..... of ..... having our registered office at ..... (hereinafter called “the Bank”), are bound unto ..... [*name of Procuring entity*] (hereinafter 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 of \_\_\_\_\_ 20 \_\_\_\_\_.

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, 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 tenderers;

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 two conditions, specifying the occurred condition or conditions.

This tender 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 date.

[*signature of the bank*] \_\_\_\_\_  
(Amend accordingly if provided by Insurance Company)



## 8.4 CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ between ..... [Tharaka Nithi County Government, P.O Box 10 Kathwana) of ..... [Kenya] (hereinafter 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 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 WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to:
2. 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 Technical Specifications
  - (d) The General Conditions of Contract
  - (e) The Special Conditions of contract; and
  - (f) the Procuring entity’s Notification of Award
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tender hereby covenants with the Procuring entity to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions of the goods 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 \_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

**8.5 PERFORMANCE SECURITY FORM**

To .....

WHEREAS ..... [*name of tenderer*]  
(hereinafter called “the tenderer”) has undertaken , in pursuance of  
Contract No. \_\_\_\_\_ [*reference number of the*  
*contract*] dated \_\_\_\_\_ 20 \_\_\_\_\_ to  
supply  
..... [Building materials and  
hardware] (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 the 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 figure*] 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 or sums within  
the limits of ..... [*amount of guarantee*] as aforesaid,  
without you 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 \_\_\_\_

\_\_\_\_\_  
Signed and seal of the Guarantors

\_\_\_\_\_  
\_\_\_\_\_  
[*name of bank or financial institution*]

\_\_\_\_\_  
\_\_\_\_\_  
[*address*]

\_\_\_\_\_  
\_\_\_\_\_  
[*date*]

**8.6 BANK GUARANTEE FOR ADVANCE PAYMENT FORM**

To .....  
[Tharaka Nithi County Government, P.O Box 10 Kathwana]

[insert category] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, ..... [name and address of tenderer](hereinafter called “the tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of ..... [amount of guarantee in figures and words].

We, the ..... [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding ..... [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 in full effect from the date of the advance payment received by the tenderer under the Contract until ..... [date].

Yours truly,

Signature and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]

## 8.7 MANUFACTURER'S AUTHORIZATION FORM

To *[name of the Procuring entity]* .....

WHEREAS .....  
*[name of the manufacturer]* who are established and reputable  
manufacturers of ..... *[name and/or description of the  
goods]* having factories at ..... *[address of  
factory]* do hereby authorize ..... *[name and address  
of Agent]* to submit a tender, and subsequently negotiate and sign the  
Contract with you against tender No. .... *[reference  
of the Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General  
Conditions of Contract for the goods offered for supply by the above firm  
against this Invitation for Tenders.

---

.....  
*[signature for and on behalf of manufacturer]*

*Note:* This letter of authority should be on the letterhead of the  
Manufacturer and should be signed by a person competent.

**8.8 LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_  
\_\_\_\_\_

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)* \_\_\_\_\_  
\_\_\_\_\_

SIGNED FOR ACCOUNTING  
OFFICER

**8.9 FORM RB 1**

**REPUBLIC OF KENYA**  
**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*) of  
.....dated the...day of .....20.....in the matter of Tender No.....of  
.....20...

**REQUEST FOR REVIEW**

I/We.....,the above named Applicant(s), of address: Physical  
address.....Fax 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.
- etc.

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

- 1.
  - 2.
- etc

SIGNED .....(Applicant)

Dated on.....day of ...../...20...

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**FOR OFFICIAL USE ONLY**

Lodged with the Secretary Public Procurement Administrative Review Board on .....  
day of .....20.....

SIGNED  
Board Secretary