



**THREE YEAR FRAMEWORK AGREEMENT FOR PROVISION OF TAXI SERVICES - TENDER NO.
KPPF/PROC/2-A/04/2022**

(OPEN TENDER)

FEBRUARY 2022

Stima PlazaAnnex, Kolobot Road,
P.O. Box 1548 - 00600
Nairobi, Kenya.

TEL NO: 254-20-5209600/36

EMAIL: tenders@kppf.co.ke

**ALL CANDIDATES ARE ADVISED TO READ CAREFULLY THIS TENDER DOCUMENT IN ITS ENTIRETY BEFORE
MAKING ANY BID**

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SECTION I - INVITATION TO TENDER

DATE: FEBRUARY 2022

- 1.1 The Kenya Power Pension Fund (KPPF) invites bids from eligible tenderers for a three (3) year **FRAMEWORK AGREEMENT FOR PROVISION OF TAXI SERVICES - TENDER NO. KPPF/PROC/2-A/04/2022**
- 1.2 Tendering will be conducted under open competitive method [National] using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
- 1.3 Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours [0800 to 1700 hours] at the address given below.

The Head of Procurement,
Kenya Power Pension Fund, Stima plaza Annex,
Kolobot Road, Parklands
P.O Box 1548 – 00600 Nairobi, Kenya.
TEL NO: 254-20-5029600
EMAIL: tenders@kppf.co.ke
- 1.4 Tender documents may be viewed and downloaded for free from the website www.kppf.co.ke. Tenderers who download the tender document must forward their particulars immediately to tenders@kppf.co.ke to facilitate any further clarification or addendum.
- 1.5 Completed Tenders MUST be enclosed in plain sealed envelopes marked with the tender reference number **“TENDER NO. KPPF/PROC/2-A/04/2022”** and Tender name **‘THREE YEAR FRAMEWORK AGREEMENT FOR PROVISION OF TAXI SERVICES’** and be deposited in the Tender Box next to the lift lobby located at Stima Plaza Annex, Ground Floor, Kolobot Road, Nairobi, Kenya so as to be received on or before **Thursday 10th March 2022 AT 11:30 AM**. Electronic Tenders will not be permitted.
- 1.6 Any duly sealed tender documents which are **bulky** and cannot fit into the Tender Box shall be received only between **8.00 a.m. and 11.30 a.m.** at the Kenya Power Pension Fund Offices, **Stima Plaza Annex, 3rd Floor Reception on the tender submission deadline**. Bidders who submit documents in accordance with this paragraph **must sign the submission register** for bulky Tender documents which will be availed at the time and place of submission.
- 1.7 Tenders will be opened immediately after the deadline date and time specified above or any deadline date and times specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at **Ground Floor Stima Plaza Annex, Kenya Power Pension Fund Offices, Kolobot Road Parklands Nairobi Kenya**.
- 1.8 Prices quoted should be inclusive of all taxes and delivery costs to the required site (where applicable) and **must be in Kenya Shillings** and shall remain valid for Two Hundred and Ten (210) days from the closing date of the tender.

- 1.9 The Tenderer shall chronologically serialize all pages of the tender documents submitted.
- 1.10 The Fund reserves the right to conduct due diligence and, for that purpose, to contact any government or other agency in order to satisfy itself of the eligibility and/or suitability of any Bidder, provided that the foregoing shall not be interpreted to excuse any Bidder from making all disclosures required in the tender documents and the applicable laws.
- 1.11 Late tenders will be rejected

CEO AND TRUST SECRETARY
15th FEBRUARY 2022.

PART 1 - TENDERING PROCEDURES

SECTION I -INSTRUCTIONS TO TENDERERS

A. General

Definitions

In this tender, unless the context or express provision otherwise requires: -

- a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.*
- b) *“Date of Tender Document” shall be the start date specified on the KPPF tender document*
- c) *“Day” means calendar day and “month” means calendar month.*
- d) *“KEBS” wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*
- e) *“KENAS” wherever appearing means the Kenya National Accreditation Service or its successor(s) and assign(s) where the context so admits*
- f) *“PPRA” wherever appearing means The Public Procurement Regulatory Authority or its successor(s) and assign(s) where the context so admits.*
- g) *Reference to “the tender” or the “Tender Document” includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.*
- h) *“The Procuring Entity” means The Kenya Power & Lighting Company Limited Staff Retirement Benefits Scheme or its successor(s) and assign(s) where the context so admits (hereinafter referred to as Kenya Power Pension Fund abbreviated as KPPF).*
- i) *“The Tenderer” means the person(s) submitting its Tender for the supply, installation and commissioning (where applicable) of the goods in response to the Invitation to Tender.*
- j) *Where there are two or more persons included in the expression the “Tenderer”, any act or default or omission by the Tenderer shall be deemed to be an act, default or omission by any one or more of such persons.*
- k) *Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*
- l) *Words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the “Tenderer” the covenants, agreements and obligations expressed to be made or performed by the Tenderer shall be deemed to be made or performed by such persons jointly and severally.*
- m) *KPPF’s “authorized person” shall mean its CEO & Trust Secretary who is designated by the PPAD Act 2015 to exercise such power, authority or discretion as is required under the tender and any contract arising therefrom, or such other KPPF staff delegated with such authority.*
- n) *Citizen suppliers-means a person/firm wholly owned and controlled by person(s) who are citizens of Kenya.*
- o) *Local suppliers- a firm shall be qualified as a local supplier if it is registered in Kenya.*

1. Scope of Tender

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

2. Throughout this tendering document:

2.1 The terms:

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

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

3. Fraud and Corruption

- 3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015 (the Act), Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

- 3.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

- 3.3 **Unfair Competitive Advantage** - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the **TDS** and make available to all the firms together with this tender document all Information that would in that respect gives such firm any unfair competitive advantage over competing firms.

- 3.4 **Unfair Competitive Advantage-Fairness** and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. The Procuring Entity shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

4. Eligible Tenderers

- 4.1 A Tenderer may be a firm that is a private entity, a state-owned entity or institution subject to ITT 4.6, or any combination of such entities in the form of a Joint Venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. Members of a joint venture may not also make an individual tender, be a sub contract or in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the **TDS**.
- 4.2 Public Officers, of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse in which they have a substantial or controlling interest shall not be eligible to tender or be awarded contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 4.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
 - b Receives or has received any direct or indirect subsidy from another Tenderer; or
 - c has the same legal representative as another Tenderer; or
 - d has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
 - e or any of its affiliates participated as a consultant in the preparation of the Procuring Entity's Requirements (including Activities Schedules, Performance Specifications and Drawings) for the Non-Consulting Services that are the subject of the Tender; or
 - f or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity for the Contract implementation; or
 - g would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 2. 1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
 - h has a close business or family relationship with a professional staff of the Procuring Entity or of the project implementing agency, who:
 - i are directly or in directly involved in the preparation of the tendering document or specifications of the contract, and/or the Tender evaluation process of such contract; or
 - ii Would be involved in the implementation or supervision of such contract unless the conflicts teeming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the procurement process and execution of the Contract.
- 4.4 A firm that is a Tenderer (either individually or as a JV member) shall not participate in more than one tender, except for permitted alternative Tenders. This includes participation as a subcontractor. Such participation shall result in the disqualification of

all Tenders in which the firm is involved. A firm that is not a Tenderer or a JV member may participate as a sub-contractor in more than one Tender.

- 4.5 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9.
- 4.6 A Tenderer that has been sanctioned by PPRA or are under a temporary suspension or a debarment imposed by any other entity of the Government of Kenya shall be ineligible to be pre-qualified for, initially selected for, tender for, propose for, or be awarded a contract during such period of sanctioning. The list of debarred firms and individuals is available at the PPRA Website www.ppra.go.ke
- 4.7 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish that they: (i) are legally and financially autonomous; (ii) operate under Commercial law; and (iii) are not under supervision of the Procuring Entity.
- 4.8 Firms and individuals may be ineligible if (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council take under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person or entity in that country.
- 4.9 A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub consultants for any part of the Contract including related Services.
- 4.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in *"SECTION III-EVALUATION AND QUALIFICATION CRITERIA, Item 9"*.
- 4.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not sub contract to foreign firms more than 10 percent of the contract price, excluding provisional sums.
- 4.12 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website

- 4.13 A Tenderer may be considered ineligible if he/she offers goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.
- 4.14 A Kenyan tenderer shall be eligible to tender if it provides evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

5 Qualification of the Tenderer

- 5.1 All Tenderers shall provide in Section IV, Tendering Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.
- 5.2 In the event that pre-qualification of Tenderers has been undertaken as stated in ITT 18.3, the provisions on qualifications of the Section III, Evaluation and Qualification Criteria shall not apply.

B. Contents of Tendering Document

6 Sections of Tendering Document

- 6.1 The tendering document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITT 10.

PART 1: Tendering Procedures

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

PART 2: Procuring Entity's Requirements

- v) Section V-Procuring Entity's Requirements

PART 3: Contract

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

- 6.2 The Invitation to Tender (ITT) notice or the notice to pre-qualify Tenderers, as the case may be, issued by the Procuring Entity is not part of this tendering document.
- 6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.
- 6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

1. Site Visit

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

8 Pre-Tender Meeting

- 8.1 The Procuring Entity shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pre-tender site visit will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pre-tender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.
- 8.3 Minutes of the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the service, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT6.3. Minutes shall not identify the source of the questions asked.
- 8.4 The Procuring Entity shall also promptly publish anonymized (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the service at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9 Clarification of Tender Documents

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

10 Amendment of Tender Documents

- 10.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.
- 10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance with ITT 8.4.

- 10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 24.2 below.

C. Preparation of Tenders

11 Cost of Tendering

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

12 Language of Tender

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

13 Documents Comprising the Tender

- 13.1 The Tender shall comprise the following:
- a **Form of Tender** prepared in accordance with ITT 14;
 - b **Schedules:** priced Activity Schedule completed in accordance with ITT 14 and ITT 16;
 - c **Tender Security or Tender-Securing Declaration** in accordance with ITT 21.1;
 - d **Alternative Tender:** if permissible in accordance with ITT 15;
 - e **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
 - f **Qualifications:** documentary evidence in accordance with ITT 19 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
 - g **Tenderer's Eligibility:** documentary evidence in accordance with ITT 19 establishing the Tenderer's eligibility to Tender;
 - h **Conformity:** documentary evidence in accordance with ITT 18, that the Services conform to the tendering document; and
 - i Any other document required in the **TDS**.

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

- 13.2 In addition to the requirements under ITT 13.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement.
- 13.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

14 Form of Tender and Activity Schedule

- 14.1 The Form of Tender and priced Activity Schedule shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 22.3. All blank spaces shall be filled in with the information requested.
- 14.2 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

15 Alternative Tenders

- 15.1 Unless otherwise indicated **in the TDS**, alternative Tenders shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the Best Evaluated Tender shall be considered by the Procuring Entity.
- 15.2 When alternative times for completion are explicitly invited, a statement to that effect will be included **in the TDS** and the method of evaluating different time schedules will be described in Section III, Evaluation and Qualification Criteria.
- 15.3 When specified **in the TDS**, Tenderers are reemitted to submit alternative technical solutions for specified parts of the Services, and such parts will be identified **in the TDS**, as will the method for their evaluating, and described in Section VII, Procuring Entity's Requirements.

16. Tender Prices and Discounts

- 16.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Activity Schedule (s) shall conform to the requirements specified below.
- 16.2 All lots (contracts) and items must be listed and priced separately in the Activity Schedule(s).
- 16.3 The Contract shall be for the Services, as described in Appendix A to the Contract and in the Specifications (or Terms of Reference), based on the priced Activity Schedule, submitted by the Tenderer.
- 16.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender in accordance with ITT 16.1.
- 16.5 The Tenderer shall fill in rates and prices for all items of the Services described in the Specifications (or Terms of Reference), and listed in the Activity Schedule in Section VII, Procuring Entity's Requirements. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.
- 16.6 All duties, taxes, and other levies payable by the Service Provider under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the total Tender price submitted by the Tenderer.
- 16.7 If provided for **in the TDS**, the rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and / or Special Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Special Conditions of Contract and of the General Conditions of Contract.
- 16.8 For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Tenderer in the form of Appendices D and E to the Contract.

17 Currencies of Tender and Payment

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

18 Documents Establishing Conformity of Services

18.1 To establish the conformity of the Non-Consulting Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that Services provided conform to the technical specifications and standards specified in Section VII, Procuring Entity's Requirements.

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

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

18.4 The purpose of the information described in ITT 18.3 above, overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

18.4 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT18.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

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

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

18.8 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the

public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

- i) If the procurement process is still on going, the tenderer will be disqualified from the procurement process,
- ii) if the contract has been awarded to that tenderer, the contract award will be set aside, pending the outcome of (iii),
- iii) The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

18.9 If a tenderer submits information pursuant to these requirements that is in complete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 18.9 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error or which was not attributable to the intentional act, negligence or recklessness of the tenderer.

19 Documents Establishing the Eligibility and Qualifications of the Tenderer

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

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

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

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

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

20 Period of Validity of Tenders

20.1 Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline date (as prescribed by the Procuring Entity in accordance with ITT 24.1). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

20.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT20, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender.

21 Tender Security

- 21.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender security, as specified **in the TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified **in the TDS**.
- 21.2 A Tender Securing Declaration shall use the form included in Section IV, Tendering Forms.
- 21.3 If a Tender Security is specified pursuant to ITT 21.1, from a reputable source, and an eligible country and shall be in any of the following forms at the Tenderer's option:
- i) cash;
 - ii) a bank guarantee;
 - iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
 - iv) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,
- 21.4 If a Tender Security is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.
- 21.5 If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the contract and furnishing the Performance Security pursuant to ITT 46. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bidder declines to extend tender validity period.
- 21.6 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security.
- 21.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:
- a. If a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereof provided by the Tenderer; or
 - b. if the successful Tenderer fails to:
 - c. sign the Contract in accordance with ITT 46; or
 - d. Furnish a performance security in accordance with ITT 47.
- 21.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debar the Tenderer from participating in public procurement as provided in the law.
- 21.9 The Tender Security or Tender-Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender security or Tender-Securing Declaration shall be in the names of all future members as named in the Form of intent referred to in ITT 4.1 and ITT 13.2.
- 21.10 A tenderer shall not issue a tender security to guarantee itself.

22 Format and Signing of Tender

- 22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13, bound with the volume containing the Form of Tender, and clearly marked "Original." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS, and clearly marked as "Copies." In the event of discrepancy between them, the original shall prevail.
- 22.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 22.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 22.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

23 Sealing and Marking of Tenders

- 23.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:
- a. in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT13; and
 - b. in an envelope or package or container marked "COPIES", all required copies of the Tender; and
 - c. if alternative Tenders are permitted in accordance with ITT15, and if relevant:
 - i. in an envelope or package or container marked "ORIGINAL-ALTERNATIVE TENDER", the alternative Tender; and
 - ii. in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) Bear the name and address of the Procuring Entity.
 - b) Bear the name and address of the Tenderer; and
 - c) Bear the name and Reference number of the Tender.
- 23.2 If an envelope or package or container is not sealed and marked as required, the

Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender. Tenders misplaced or opened prematurely will not be accepted.

24 Deadline for Submission of Tenders

24.1 Tenders must be received by the Procuring Entity at the address and no later than the date and time specified **in the TDS**. When so specified **in the TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified **in the TDS**.

24.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT9, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25 Late Tenders

25.1 The Procuring Entity shall not consider any Tender that arrives after the dead line for submission of Tenders, in accordance with ITT 24. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

26 Withdrawal, Substitution and Modification of Tenders

26.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by a n authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) Prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" and
- b) Received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 23.

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

26.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

27 Tender Opening

27.1 Except as in the cases specified in ITT 23 and ITT 25.2, the Procuring Entity shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives and anyone who choose to attend. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 23.1 shall be as specified **in the TDS**.

27.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the

corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

- 27.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 27.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 27.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.
- 27.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further. The Form of Tender and the priced Activity Schedule are to be initialed by representatives of the Procuring Entity attending Tender opening in the manner specified in the TDS.
- 27.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT25.1).
- 27.8 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:
- a) The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 - b) The Tender Price, per lot (contract) if applicable, including any discounts; and
 - c) any alternative Tenders;
 - d) The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.
 - e) Number of pages of each tender document submitted
- 27.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and effect of the record. A copy of the tender opening register shall be distributed to Tenderer upon request.

E. Evaluation and Comparison of Tenders

28 Confidentiality

- 28.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until information on the Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 42.
- 28.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation or contract award decisions may result in the rejection of its Tender.

28.3 Notwithstanding ITT 28.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

29 Clarification of Tenders

29.1 To assist in the examination, evaluation, and comparison of Tenders, and qualification of the Tenderers, the Procuring Entity may, at the Procuring Entity's discretion, ask any tenderer for clarification of its Tender including break downs of the prices in the Activity Schedule, and other information that the Procuring Entity may require. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the Tenders, in accordance with ITT32.

29.2 If a Tenderer does not provide clarifications of its Tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

30 Deviations, Reservations, and Omissions

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

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

31 Determination of Responsiveness

31.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 12.

31.2 A substantially responsive Tender is one that meets the requirements of the tendering document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

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

31.3 The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 18 and ITT 19, in particular, to confirm that all requirements of Section VII, Procuring Entity's Requirements have been met without any material deviation or reservation, or omission.

31.4 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive

by correction of the material deviation, reservation, or omission.

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

31.6 Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non- conformities or omissions in the Tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

31.7 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in the TDS**.

32 Arithmetical Errors

32.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

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

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive .and

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

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

33 Conversion to Single Currency

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

34 Margin of Preference and Reservations

34.1 Margin of preference on local service providers may be allowed if it is deemed that the services require participation of foreign tenderers. If so allowed, it will be indicated in the **TDS**.

34.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and /or persons living with disability, who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to the specified group are eligible to tender as specified in the **TDS**. Otherwise, if not so stated, the invitation will be open to all tenderers.

35 Evaluation of Tenders

- 35.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the Best Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:
- a) Substantially responsive to the tendering document; and
 - b) The lowest evaluated cost.
- 35.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender cost by adjusting the Tender price as follows:
- a) Price adjustment due to discounts offered in accordance with ITT 16.4;
 - b) price adjustment due to quantifiable non material non-conformities in accordance with ITT 31.3;
 - c) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33; and
 - d) any additional evaluation factors specified in the TDS and Section III, Evaluation and Qualification Criteria.
- 35.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.
- 35.4 In the case of multiple contracts or lots, Tenderers are allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) and for combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria. For one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT
- 35.5. The methodology to determine the lowest evaluated tenderer or tenderers based one lot (contract) or based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.

36 Comparison of Tenders

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

37 Abnormally Low Tenders and Abnormally

High Tenders Abnormally Low Tenders

- 37.1 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.
- 37.2 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity

shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.

- 37.3 After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

Abnormally High Tenders

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

- 37.5 In case of an abnormally high price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

- i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.
- ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

- 37.6 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

38 Unbalanced and/or Front-Loaded Tenders

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

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

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

39 Qualification of the Tenderer

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

39.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 18. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Tenderer that submitted the Tender.

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

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

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

F. Award of Contract

41 Award Criteria

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

42 Notice of Intention to enter in to a Contract

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

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

43 Stand still Period

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

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

44 Debriefing by the Procuring Entity

44.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 42, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.

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

45 Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 43.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

46 Signing of Contract

46.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

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

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

47 Performance Security

47.1 Within twenty-one (21) days of the receipt of the Form of Acceptance from the Procuring Entity, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 3.9, using for that purpose the Performance Security Form included in Section VIII, Contract Forms, or another Form acceptable to the Procuring Entity. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not required.

47.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

48 Publication of Procurement Contract

48.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority.

At the minimum, the notice shall contain the following information:

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

49 Adjudicator

49.1 The Procuring Entity proposes the person named **in the TDS** to be appointed as adjudicator or under the Contract, at an hourly fee specified in **the TDS**, plus reimbursable expenses. If the Tenderer disagrees with this Tender, the Tenderer should so state in the Tender. If, in the Form of Acceptance, the Procuring Entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.

50 Procurement Related Complaints and Administrative Review

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

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

SECTION II - TENDER DATA SHEET (TDS)

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

[Where a new-procurement system is used, modify the relevant parts of the TDS accordingly to reflect thee-procurement process].

[Instructions for completing the Tender Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITT].

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1.1	The reference number of the Request for Tenders (ITT) is : KPPF/PROC/2-A/04/2022 The Procuring Entity is: KENYA POWER PENSION FUND The name of the ITT is: THREE YEAR FRAMEWORK AGREEMENT FOR PROVISION OF TAXI SERVICES The number and identification of lots (contracts) comprising this ITT is: NONE
ITT 2.2	The Intended Completion Date is 3 YEARS
ITT 3.3	Information that any unfair competitive advantage over competing firms is as follow: NONE
ITT 3.4	The firms that provided consulting services NONE
ITT 4.1	Maximum number of members in the Joint Venture (JV) shall be: JV NOT ALLOWED FOR THIS TENDER
	B. Contents of Tendering Document
ITT 8.1	A pre-tender conference will <u>be held/will not be held</u> on _NOT APPLICABLE
ITT 8.2	The questions in writing, to reach the Procuring Entity not later than 7 CALENDER DAYS BEFORE TENDER SUBMISSION DEADLINE
ITT 8.4	Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works shall be published on the website NOT APPLICABLE
ITT 9.1	The Tenderer will submit any request for clarifications in writing at the Address tenders@kppf.co.ke to reach the Procuring Entity not later than 7 CALENDER DAYS BEFORE TENDER SUBMISSION DEADLINE The Procuring Entity shall publish its response at the website www.kppf.co.ke
	The Procuring Entity shall also promptly publish response at the website www.kppf.co.ke

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	C. Preparation of Tenders
ITT 13.1 (i)	The Tenderer shall submit the following additional documents in its Tender: <i>[list any additional document not already listed in ITT 13.1 that must be submitted with the Tender]</i>
	Other documents required are AS PER TENDER DCUMENTS REQUIRED
ITT 15.1	Alternative Tenders SHALL NOT BE considered.
ITT 15.2	Alternative times for completion SHALL NOT BE permitted.
ITT 15.3	NOT APPLICABLE
ITT 16.7	The prices quoted by the Tenderer SHALL NOT BE be subject to adjustment during the performance of the Contract.
ITT 20.1	The Tender validity period shall be 210 days.
ITT 21.1	<i>[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.]</i> A Tender Security SHALL NOT BE required.
ITT 21.3 (a)	The Contract price shall be adjusted- NOT APPLICABLE.
ITT 22.1	In addition to the original of the Tender, the number of copies is: ONE COPY
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: _ POWER OF ATTORNEY
	D. Submission and Opening of Tenders
ITT 24.1	For <u>Tender submission purposes</u> only, the Procuring Entity's address is: KENYA POWER PENSION FUND Attention: CEO & TRUST SECRETARY Postal Address: 1548 - 00600 Physical Address: NAIROBI KENYA, KOLOBOT ROAD PARKLANDS STIMA PLAZA ANNEX GROUND FLOOR NEXT TO THE LIFT LOBBY
ITT 24.1	The deadline for Tender submission is: Date: THURSDAY 10TH MARCH 2022 AT 11.30AM AT NAIROBI KENYA, KOLOBOT ROAD PARKLANDS STIMA PLAZA ANNEX GROUND FLOOR NEXT TO THE LIFT LOBBY
ITT 27.1	The Tender opening shall take place at: Physical Address: NAIROBI KENYA, KOLOBOT ROAD PARKLANDS STIMA PLAZA

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	ANNEX GROUND FLOOR NEXT TO THE LIFT LOBBY Date and Time : THURSDAY 10TH MARCH 2022 AT 11.30AM AT 11.30AM
ITT 27.1	NOT APPLICABLE
ITT 27.6	The Form of Tender and priced Activity Schedule shall be initialed by 3 representatives of the Procuring Entity conducting Tender opening. Each Tender shall be initialed by all representatives and total price shall be initialed by the Representative of the KPPF
E. Evaluation and Comparison of Tenders	
ITT 31.7	For comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified as follows: The adjustment shall be based on the AVERAGE price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.
ITT 33.1	The currency that shall be used for Tender evaluation and comparison purposes only to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: KENYA SHILLINGS The source of exchange rate shall be: The Central bank of Kenya (mean rate) The date for the exchange rate shall be: the deadline date for Submission of the Tenders.
ITT 34.1	Margin of preference allowed or not allowed NOT ALLOWED
ITT 34.2	NOT APPLICABLE
ITT 35.2 (d)	Additional evaluation factors shall be NOT APPLICABLE
ITT 35.4	THERE ARE NO LOTS IN THIS TENDER
F. Award of Contract	
ITT 41	Award shall be to the bidder who meets all the requirements of the preliminary evaluation and has duly filled the price schedule provided. Prior to award KPPF may carry out; due diligence exercise to ascertain the quality of the premises and authenticate the information given.
ITT 50.1	The procedures for making a Procurement-related Complaint are available from the PPRA Website www.ppra.go.ke or email complaints@ppra.go.ke .

SECTION III – EVALUATION AND QUALIFICATION CRITERIA

A. PRELIMINARY REQUIREMENTS (MANDATORY)

Evaluation of duly submitted tenders will be conducted in accordance with all the following mandatory requirements: -

No.	Documents to be submitted
1.	Copy of Valid Tax Compliance Certificate from the date of tender opening
2.	Submit a Copy Certificate of Incorporation/Registration.
3.	The validity period of the tender shall be 210 days from the date of tender opening.
4.	Submit a dully filled, signed and stamped Tender form
5.	Duly Completed signed and stamped Declaration Form.
6	Evidence of transport services being available on Google Play store/Apple store

AWARD CRITERIA: Bidders must meet all the above criteria to qualify for the three year framework agreement.

SECTION IV - TENDERING FORMS

A. TENDER FORM

Date:

Tender No.

To:

The Kenya Power Pension Fund,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 1548 – 00600,
Nairobi, Kenya.

Ladies and Gentlemen,

1. Having read, examined and understood the Tender Document including all Addenda, the receipt of which is hereby duly acknowledged, we, the undersigned Tenderer, offer **services of** (*insert service description*) or such sums as may be ascertained in accordance with the Price Schedule attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to provide the services in accordance with the delivery schedule specified in the Schedule of requirements (terms of reference).
3. If our Tender is accepted, we will obtain the performance security of a licensed bank in Kenya in a sum equivalent to ten percent (10%) of the contract price for the due performance of the contract, in the form(s) prescribed by KPPF.
- 4.* We agree to abide by this Tender for a **period of.....days (Tenderer please indicate validity of your tender)** from the date fixed for tender opening as per the Tender Document, 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 not constitute a contract, between us. The contract shall be formed between us when both parties duly sign the written contract.
6. We understand that you are not bound to accept any Tender you may receive.

Yours sincerely,

Name of Tenderer

Signature of duly authorised person signing the Tender

Name and Designation of duly authorised person signing the Tender

Stamp or Seal of Tenderer

***NOTES:**

1. KPPF requires a validity period of at least **Two hundred and Ten (210) days**.
2. This form must be duly signed, stamped and/or sealed.

B. CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

All Tenderers are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. You are advised that it is a serious offence to give false information on this form.

<p>Part 1 – General</p> <p>Business Name.....</p> <p>Location of business premises.....</p> <p>Plot No.Street/ Road</p> <p>Postal Address Postal Code</p> <p>Tel No.....</p> <p>Facsimile.....</p> <p>Mobile and/ or CDMA No.....</p> <p>E-mail:.....</p> <p>Nature of your business</p> <p>Registration Certificate No.....</p> <p>Maximum value of business which you can handle at any time KSh.....</p> <p>Name of your BankersBranch.....</p> <p>*Names of Tenderer’s contact person(s)</p> <p>Designation of the Tenderer’s contact person(s)</p> <p>Address, Tel, Fax and E-mail of the Tenderer’s contact person(s)</p> <p>.....</p> <p>.....</p>																											
<p>Part 2 (a) Sole Proprietor</p> <p>Your name in full</p> <p>NationalityCountry of origin</p> <p>*Citizenship details.....</p>																											
<p>Part 2 (b) Partnership</p> <p>Give details of partners as follows: -</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">Names</th> <th style="width: 25%;">Nationality</th> <th style="width: 35%;">*Citizenship Details</th> <th style="width: 25%;">Shares</th> </tr> </thead> <tbody> <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>				Names	Nationality	*Citizenship Details	Shares	1.....	2.....	3.....	4.....	5.....
Names	Nationality	*Citizenship Details	Shares																								
1.....																								
2.....																								
3.....																								
4.....																								
5.....																								

Part 2 (c) Registered Company

Private or Public

State the nominal and issued capital of company-

Nominal KSh.....

Issued KSh.....

Give details of all directors as follows

Name	Nationality	*Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			
5.....			

Name of duly authorized person to sign for and on behalf of the Tenderer

.....

Designation of the duly authorized person.....

Signature of the duly authorized person.....

***NOTES TO THE TENDERERS ON THE QUESTIONNAIRE**

- 1. The address and contact person of the Tenderer provided above shall at all times be used for purposes of this tender.*
- 2. If a Kenyan citizen, please indicate under "Citizenship Details" whether by birth, naturalization or registration.*
- 3. The details on this Form are essential and compulsory for all Tenderers. The CR12 must be attached. Failure to provide all the information requested shall lead to the Tenderer's disqualification.**
- 4. For foreign Tenderers please give the details of nominal and issued share capital in the currency of the country of origin of the Tenderer.*

C. DECLARATION FORM

Date _____

To:

The Kenya Power Pension Fund,
P.O Box 1548 – 00600,
Stima Plaza, Kolobot Road, Parklands,
Nairobi,
KENYA.

Ladies and Gentlemen,

The Tenderer i.e. (full name and complete physical and postal address)_____
_____ declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Tenderers.
- d) That I/ We are not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- e) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.

Yours sincerely,

Name of Tenderer

Signature of duly authorised person signing the Tender

Name and Designation of duly authorised person signing the Tender

Stamp or Seal of Tenderer

SECTION XII– DRAFT LETTER OF NOTIFICATION OF INTENT OF AWARD

To:
(Name and full address of the Successful Tenderer).....

Dear Sirs/ Madams,

RE: NOTIFICATION OF INTENT OF AWARD OF TENDER NO.

Pursuant to the provision under section 87 of the public procurement and asset disposal Act 2015 we refer to your tender dated we are pleased to inform you that following evaluation, we intend to award you a contract for the above mentioned subject to provision herein.

This notification of intent does not constitute a contract. The formal Contract Agreement and notification of award, shall be entered into pursuant to the provisions of the Public Procurement and Asset Disposal Act, 2015 *(or as may be amended from time to time, or replaced)*.

You are required to accept or reject this offer within a period of 14 days.

We take this opportunity to remind you to again note and strictly comply with the provisions as stated in the tender document.

Kenya Power Pension Fund is committed to best practices in quality management systems and supply chain management, attached please read carefully our Suppliers’ Charter. We look forward to a cordial and mutually beneficial business relationship.

Yours faithfully,
FOR: THE KENYA POWER PENSION FUND

CEO & TRUST SECRETARY.

D. DRAFT LETTER OF NOTIFICATION OF REGRET

To: *(Name and full address of the Unsuccessful Tenderer).....*

Date:

Dear Sirs/ Madams,

RE: NOTIFICATION OF REGRET IN RESPECT OF TENDER NO.

Pursuant to the provision under section 87(3) of the public procurement and asset disposal Act 2015 to notify you that following evaluation, your Tender is unsuccessful. It is therefore not accepted. The brief reasons are as follows:-

- 1.
- 2.
- 3. etc

The successful bidder was _____.

However, this notification does not reduce the validity period of your Tender Security. In this regard, we request you to relook at the provisions regarding the Tender Security, Signing of Contract and Performance Security as stated in the Instructions to Tenderers.

You may collect the tender security from our offices only after expiry of twenty five (25) days from the date hereof

It is expected that by that time KPPF and the successful bidder will have entered into a contract pursuant to the Public Procurement and Asset Disposal Act, 2015 *(or as may be amended from time to time or replaced)*. When collecting the Security, you will be required to produce the original or certified copy of this letter.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavours.

Yours faithfully,

FOR: THE KENYA POWER PENSION FUND

CEO & TRUST SECRETARY

E. CONTRACT AGREEMENT FORM

THIS AGREEMENT made this.....day of.....20.... **BETWEEN THE KENYA POWER & LIGHTING COMPANY LIMITED STAFF RETIREMENT BENEFITS SCHEME**, a retirement benefits fund licensed by Retirement Benefits Authority situated at Stima Plaza Annex, Kolobot Road, Parklands, Nairobi in the Republic of Kenya and of Post Office Box Number 1548-00600, Nairobi in the Republic aforesaid (*hereinafter referred to as the "KPPF"*) of the one part,

AND

..... (*Supplier's full name and principal place of business*) a duly registered entity according to the laws of..... (*state country*) and of Post Office Box Number/Physical Address(*full address physical and postal of Supplier*) in the Republic aforesaid, (*hereinafter referred to as the "Supplier"*) of the other part;

WHEREAS KPPF invited tenders for certain services and/ or goods, that is to say for Provision of under Tender Number.....

AND WHEREAS KPPF has accepted the Tender by the Supplier for the services and/ or goods in the sum of *include any payable taxes, duties and insurance where applicable e.g. Value Added Tax* (*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 and the Tender Document.

2. Unless the context or express provision otherwise requires: -

a) reference to "this Agreement" includes its recitals, any schedules and documents mentioned hereunder and any reference to this Agreement or to any other document includes a reference to the other document as varied supplemented and or replaced in any manner from time to time.

b) any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made thereunder.

c) words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.

d) words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the "*Supplier*" the covenants, agreements obligations expressed to be made or performed by the Supplier shall be deemed to be made or performed by such persons jointly and severally.

e) where there are two or more persons included in the expression the "*Supplier*" any act default or omission by the Supplier shall be deemed to be an act default or omission by any one or more of such persons.

3. In consideration of the payment to be made by KPPF to the Supplier as hereinbefore mentioned, the Supplier hereby covenants with KPPF to perform and provide the services and/ or goods and remedy any defects thereon in conformity in all respects with the provisions of the Contract.

4. KPPF hereby covenants to pay the Supplier in consideration of the proper performance and provision of the services and/ or 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.

5. The following documents shall constitute the Contract between KPPF and the Supplier and each shall be read and construed as an integral part of the Contract: -

- a) this Contract Agreement
- b) the Special Conditions of Contract as per the Tender Document
- c) the General Conditions of Contract as per the Tender Document
- d) the Price Schedules submitted by the Supplier and agreed upon with KPPF.
- e) the Schedule of Requirements/ terms of reference as per the Tender Document
- f) KPPF's Notification of Award dated.....
- g) the Tender Form signed by the Supplier
- h) the Declaration Form signed by the Supplier/ successful Tenderer
- i) the services shall be provided for a **period of** from the Commencement Date (*hereafter referred to as the "term"*)

6. In the event of any ambiguity or conflict between the contract documents listed above, the order of precedence shall be the order in which the contract documents are listed in 5 above except where otherwise mutually agreed in writing.

7. The Commencement Date shall be the working day immediately following the fulfillment of all the following: -

- a) Execution of this Contract Agreement by KPPF and the Supplier.
- b) Issuance of the Performance Bond by the Supplier and confirmation of its authenticity by KPPF.
- c) Issuance of the Official Order by KPPF to the Supplier.

8. The period of contract validity shall begin from the Commencement date and end sixty (60) days after the last date of the agreed performance schedule.

Provided that the expiry period of the Warranty shall be as prescribed and further provided that the Warranty shall survive the expiry of the contract.

9. It shall be the responsibility of the Supplier to ensure that its Performance Security is valid at all times during the period of contract validity and further is in the full amount as contracted.

10. Any amendment, change, addition, deletion or variation howsoever to this Contract shall only be valid and effective where expressed in writing and signed by both parties.

11. No failure or delay to exercise any power, right or remedy by KPPF shall operate as a waiver of that right, power or remedy and no single or partial exercise of any other right, power or remedy.

12. Notwithstanding proper completion of performance or parts thereof, all the provisions of this Contract shall continue in full force and effect to the extent that any of them remain to be implemented or performed unless otherwise expressly agreed upon by both parties.

13. Any notice required to be given in writing to any Party herein shall be deemed to have been sufficiently served, if where delivered personally, one day after such delivery; notices by electronic mail and facsimile shall be deemed to be served one day after the date of such transmission and delivery respectively, notices sent by post shall be deemed served seven (7) days after posting by registered post (*and proof of posting shall be proof of service*), notices sent by courier shall be

deemed served two (2) days after such receipt by the courier service for Local Suppliers and five (5) days for Foreign Suppliers.

14. For the purposes of Notices, the address of KPPF shall be CEO & Trust Secretary, Kenya

Power Pension Fund, 3rd Floor, Stima Plaza Annex, Kolobot Road, Post Office Box Number 1548–00600, Nairobi, Kenya. The address for the Supplier shall be the Supplier’s address as stated by it in the Confidential Business Questionnaire provided in the Tender Document.

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

SIGNED for and on behalf
of **KPPF**

CEO & TRUST SECRETARY

SEALED with the **COMMON SEAL**
of the **SUPPLIER**
in the presence of:-

DIRECTOR

Affix Supplier’s Seal / Stamp here

DIRECTOR’S FULL NAMES

and in the presence of:-

DIRECTOR/ COMPANY SECRETARY

DIRECTOR/ COMPANY SECRETARY’S FULL NAMES

F. PERFORMANCE SECURITY FORM (BANK GUARANTEE)

(To Be Submitted On Bank’s Letterhead)

Date:

To:

The Kenya Power Pension Fund,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 1548 – 00600,
Nairobi, Kenya.

WHEREAS.....(hereinafter called “the Supplier”) has undertaken, in pursuance of your Tender Number.....(*reference number of the Tender*) and its Tender dated(*insert Supplier’s date of Tender taken from the Tender Form*) to supply(*description of the goods*) (hereinafter called “the Contract);

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by an acceptable bank for the sum specified therein as security for compliance of the Supplier’s performance obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Supplier a guarantee;

THEREFORE WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total sum of..... (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Supplier 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 theday of.....20....

EITHER

SEALED with the)
COMMON SEAL)
of the said **BANK**)
)

thisday)
)
of20....)
in the presence of :-)
)
_____)
)
and in the presence of:-)
)
_____)

BANK SEAL

OR

SIGNED by the **DULY AUTHORISED REPRESENTATIVE(S)/ ATTORNEY(S)** of

the **BANK**

Name(s) and Designation of duly authorised representative(s)/ attorney(s) of the Bank

Signature(s) of the duly authorised person(s)

NOTES TO SUPPLIERS AND BANKS

- 1. Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Performance Security Bond (the Bond) to be furnished by the successful Tenderer/ Supplier. If any are made, the Bond may not be accepted and shall be rejected by KPPF. For the avoidance of doubt, such rejection will be treated as non-submission of the Bond where such Bond is required in the tender and Contract.*

- 2. KPPF shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPPF. The period for response shall not exceed five (5) days from the date of KPPF's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified.*

- 3. The issuing Bank should address its response or communication regarding the bond to KPPF at the following e-mail address – "cmbuiya@kppf.co.ke"*

G. SUPPLIER EVALUATION FORM

ASPECTS	RATING GUIDELINES				PROCUREMENT SCORE	USER'S SCORE	COMMENTS	TOTALS
1. COST OF SERVICE/PRODUCT	Did the vendor assist in or advice on ways of reducing the costs?	YES: 5	PARTIAL Y:2.5	NO: 0				
	Did the company vary agreed contract amount?	YES: 0	-	NO: 5				10
2.ON TIME DELIVERY OF PRODUCT OR SERVICE	Rate guidelines				Procurement Score	User's Score	Comments	Totals
	Did the vendor perform work in compliance with contract terms and agreements?	YES: 8	PARTIAL Y:4	NO: 0				
	Was the vendor prompt and effective in correction of situations and conditions?	YES: 4	PARTIAL Y:2	NO: 0				
	Are you able to track service level agreements and determine duration of incidents from the vendor?	YES: 4	PARTIAL Y:2	NO: 0				
								16
3. QUALITY	Rating guidelines				Procurement Score	User's Score	Comments	Totals
	When performing their duties, was there - rework or returns caused by non conformance to quality?	NO:10	PARTIAL Y:5	YES: 0				
	Was the quality of service /goods delivered equal to KPPF's minimum	YES: 10	PARTIAL Y:5	NO:0				

	requirements?							
								20
4.RESPONSIVENESS	Rating guidelines				Procurement Score	User's Score	Comments	Totals
	Was the vendor well responsive to information requests, issues, or problems that arose in the course of service?	YES: 6	PARTIAL Y:3	NO: 0				
	Was the vendor open to feedback on low quality of service levels and willing to act on this?	YES: 4	PARTIAL Y:2	NO: 0				
	Is it easy to reach staff members of suppliers in case of a request or query? (are communication channels clear?)	YES: 4	PARTIAL Y:2	NO: 0				14
6. CUSTOMER SUPPORT	Rating guidelines				Procurement Score	User's Score	Comments	Totals
	Did the vendor offer effective customer support?	YES: 10	PARTIAL Y:5	NO: 0				
	In case of reported problems/issues, were there follow ups by the vendor to ensure the problem is fully resolved during support?	YES: 8	PARTIAL Y:4	NO: 0				
								18
7. COMMUNICATION SKILLS	Rating guidelines				Procurement Score	User's Score	Comments	Totals
	Are you	YES:	PARTIAL	NO: 0				

	satisfied with the attitude, courtesy, and professionalism of this vendor's staff? Written or spoken?	4	Y:2					
	Are the vendor's staff well equipped and skilled in handling requests / issues? Are you rotated too much among staff on an issue?	YES: 8	PARTIAL Y:4	NO: 0				
								12
8. VALUE ADD	Rating guidelines					User's Score	Comments	Totals
	Did the vendor go over and above in optimizing service delivery process for effective services delivery?	YES: 5	PARTIAL Y:5	NO: 0				
								10
Maximum Score						100.0		100.00%
User to summarize key performance issues for the vendor.								
Evaluation Done by:	Name	Department	Sign			Date		

DISCLOSURE OF ANY LITIGATION ISSUES FORM

1. Statement of litigation history must be filled

Form LIT: Pending Litigation (where applicable Each Bidder or member of a JV must fill in this form)

Pending Litigation <input type="checkbox"/> <input type="checkbox"/>			
<input type="checkbox"/> No pending litigation <input type="checkbox"/> Pending litigation			
Year	Matter in Dispute	Value of Pending Claim in KSH.	Value of Pending Claim as a Percentage of Net Worth

Yours sincerely,

Name of Tenderer

Signature of duly authorised person signing the Tender

Name and Designation of duly authorised person signing the Tender

Stamp or Seal of Tenderer

PART II – PROCURING ENTITY'S REQUIREMENTS

SECTION V – TERMS OF REFERENCE

TERMS OF REFERENCE AND SCHEDULE OF REQUIREMENTS FOR THREE YEAR FRAMEWORK AGREEMENT FOR PROVISION OF TAXI SERVICES – TENDER NO. KPPF/PROC/2-A/04/2022

Introduction

The Kenya Power Pension Fund (“KPPF” or “the Fund”) is one of the leading Kenyan occupational pension funds that has 11, 690 members and more than Kshs. 30 billion in assets under management (AUM) across its two pension funds – Defined Benefit (DB) and Defined Contribution (DC).

The DB and DC Funds were established with the main purpose of providing pension and cash benefits for members, who are employees of the Kenya Power & Lighting Company Limited, upon their retirement and where applicable, relief for the dependents of deceased members.

The fund has an establishment of thirty-six (36) employees and nine (9) Trustees. However, the number may vary from time to time.

It is in this regard that the fund would like to engage a taxi/transportation firm to offer seamless transport services countrywide while using technology.

Terms of reference

1. Provision of car hire, shuttle and or taxi services.
2. The services must be hosted on a mobile application services available on Google play store or Apple store:
 - a) Should provide email receipt
 - b) Detailed reports on employee travel information
 - c) The KPPF administrator should be able to retrieve reports online.
 - d) The administrator should be able to review trips on the business account and access information e.g. pick up location, fare trip, map road, drop off and time of the trip.
 - e) All rides should be GPS tracked from start to finish.
3. Availability in any of major towns i.e. Nairobi, Mombasa, Kisumu, Nakuru, Eldoret etc. And it may also be available internationally.
4. The transportation services may be provided in insured, well maintained vehicles and professional drivers.
5. The charge rates shall be dependent on kilometres and time spend.
6. The fund shall require a dedicated sole account manager who will be in charge of handling the KPPF account.
7. Payment will be made on monthly basis after the services have been rendered.
8. The Contract duration is 12 months and maybe renewed based on satisfactory performance of the contract.

SECTION VI -PRICE SCHEDULE

No.	Description of price	Amount (Ksh.) Inclusive VAT
1.	Rate per kilometer for: Saloon Vans Minibus	
2.	Rate per minute	
3.	Base Rate	
4.	Minimum Charge	

PART III – CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VII - GENERAL CONDITIONS OF CONTRACT

A. General conditions

The General Conditions of Contract *hereinafter referred abbreviated as the GCC* shall form part of the Conditions of Contract in accordance with the law and KPPF's guidelines, practices, procedures and working circumstances. The provisions in the GCC will apply unless an alternative solution or amendment is made under other parts of the Contract including the Special Conditions of Contract.

7.1 Definitions

In this contract, the following terms shall be interpreted as follows: -

- a) *"Day" means calendar day and "month" means calendar month.*
- b) *"The Contract" means the agreements entered into between KPPF and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.*
- c) *"The Contract Price" means the price payable to the Supplier under the contract for the full and proper performance of its contractual obligations.*
- d) *"The Services and/ or goods" means services and/ or goods or art thereof to be provided by the Supplier and includes all of the materials and incidentals, which the Supplier is required to perform and provide to KPPF under the contract.*
- e) *"The Procuring Entity" means The Kenya Power Pension or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as KPPF).*
- f) *"The Supplier" means the individual or firm providing the services and/ or goods under this contract or his/ her/ its permitted heir(s), personal representative(s), successor(s) or permitted assign(s) where the context so admits. For the avoidance of doubt this shall mean the successful Tenderer(s) pursuant to the tender.*
- g) *Wherever used in the contract, "performance" shall be complete or be deemed to be complete, unless the circumstances indicate otherwise, when the services and/ or goods have been performed in accordance with the Contract and where KPPF does not signify its approval to the Supplier, but without giving notice of dissatisfaction, on the expiration of thirty (30) days from date of documented completion of performance of the service.*

7.2 Application

These General Conditions shall apply to the extent that provisions of other parts of the contract do not supersede them.

7.3 Standards

The Services and/ or goods supplied under this contract shall conform to the standards mentioned in the Details of Service.

7.4 Use of Contract Documents and Information

- 7.4.1 The Supplier shall not, without KPPF's prior written consent, disclose the contract, or any provision thereof or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of KPPF in connection therewith, to any person other than a person employed by the Supplier in the performance of the contract.
- 7.4.2 The Supplier shall not, without KPPF's prior written consent, make use of any document or information enumerated in clause 7.4.1 above.
- 7.4.3 Any document, other than the contract itself, enumerated in clause 7.4.1 shall remain the property of KPPF and shall be returned (including all copies) to KPPF on completion of the Supplier's performance under the contract if so required by KPPF.

7.5 Patent Rights

The Supplier shall indemnify KPPF against all third party claims of infringement of patent, trademark, or industrial design rights arising from provision of the services and/ or goods or any part thereof.

7.6 Performance Security

- 7.6.1 Within fourteen (14) days of the date of the notification of contract award, the Supplier shall furnish to KPPF the Performance Security which shall be an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document.
- 7.6.2 The Performance Security shall be issued by a commercial bank licensed by the Central Bank of Kenya. The bank must be located in Kenya.
- 7.6.3 The Performance Security shall be the sum of ten percent (10%) of the contract price. It shall be in the currency of the contract price.
- 7.6.4 Failure of the Supplier to furnish the Performance Security, the award shall be annulled and the Tender Security forfeited, in which event KPPF may notify the next lowest evaluated Tenderer that its Tender has been accepted.
- 7.6.5 The proceeds of the Performance Security shall be payable to KPPF as compensation for any loss resulting from the Supplier's failure to comply with its obligations in accordance with the contract without KPPF being required to demonstrate the loss it has suffered.
- 7.6.6 The Performance Security shall be valid for a minimum of sixty (60) days after satisfactory delivery for both Foreign and Local Suppliers.
- 7.6.7 KPPF shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPPF. The period for response shall not exceed three (3) days from the date of KPPF's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified, unless information to the contrary is received by KPPF two (2) days before the expiry of the Supplier's Tender Security.
- 7.6.8 Subject to the provisions of this contract, the Performance Security will be discharged by KPPF and returned to the Supplier not earlier than thirty (30) days following the date of completion of the Supplier's obligations under the contract, including any warranty obligations, under the contract.

7.7 Inspection and Tests

- 7.7.1 KPPF or its representative(s) shall have the right to inspect and/or to test the services and/ or goods to confirm their conformity to the contract specifications. KPPF shall notify the Supplier in writing in a timely manner, of the identity of any representative(s) retained for these purposes. Such visit and or inspection/ test shall in no way prejudice KPPF's rights and privileges.
- 7.7.2 In appropriate circumstances, Inspection/ Test Report(s) shall be completed upon conclusion of the inspection/ tests.
- 7.7.3 The inspections and tests may be conducted in the premises of the Supplier or its subsupplier(s). If conducted on the premises of the Supplier or its subsupplier(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to KPPF.
- 7.7.4 Should any inspected or tested services and/ or goods fail to conform to the specifications, KPPF may reject the Service(s), and the Supplier shall either replace or remedy the rejected services and/ or goods or make alterations necessary to meet specification requirements free of cost to KPPF.
- 7.7.5 KPPF's right to inspect, test and where necessary, reject the services and/ or goods after provision shall in no way be limited or waived by reason of the services and/ or goods having previously been inspected, tested and passed by KPPF or its representative(s) prior to the services and/ or goods performance / delivery.
- 7.7.6 For the avoidance of doubt, any acknowledgement by KPPF on the Supplier's or sub-supplier's document shall not be conclusive proof or evidence of satisfactory performance without duly authorized approval by KPPF.
- 7.7.7 Nothing in this clause 7.7 shall in any way release the Supplier from any warranty or other obligations under this Contract.

7.8 Packaging and Labelling – Not applicable for services

- 7.8.1 Where applicable, the Supplier shall provide such packaging of the material and equipment as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract.
- 7.8.2 The method of packaging, labeling and marking shall comply strictly with such special requirements as shall be specified and attached to the Contract and particular Order.
- 7.8.3 The labelling, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract.
- 7.8.4 The materials and equipment shall be packed in good condition suitable for sea/air/road/rail dispatch. Hazard in transit to the final destination shall include rough handling and storage in tropical conditions.
- 7.8.5 The Supplier shall enclose a packing list in each package and all documents relating to the Order shall show the Tender reference number and name against the items or package indicating the supplier or supplier's agent as the consignee.

7.9 Delivery and Documents for Materials/ Equipment Or Services

- 7.9.1 Where applicable, delivery of the materials/ equipment shall be made by the Supplier to the place and in accordance with the terms specified by KPPF in its Schedule of Requirements or as may be otherwise indicated.

7.9.2 The Supplier shall notify KPPF of the full details of the delivered materials/ equipment by delivering the materials/ equipment with a full set of the following documents: -

- a) *Supplier's invoice showing the materials/ equipment description, quantity, unit price and total price*
- b) *Delivery note*
- c) *Packing list identifying contents of each package*

7.9.3 It is the responsibility of the Supplier to ensure that the delivery documents are received by KPPF at the designated delivery point at the time of delivery. For services, the supplier is advised to submit all the necessary reports as indicated in the terms of reference

7.10 Insurance

7.10.1 The Supplier shall be responsible for and keep in force current appropriate insurance covers for its property and/or persons engaged in the performance and or provision of the Services and/ or goods under the contract.

7.10.2 The Supplier shall (*except in respect to losses, injuries or damage resulting from any act or neglect of KPPF*) indemnify and keep indemnified KPPF against all losses and claims for injuries or damage to any person or property whatsoever which may arise out of or in consequence of the contract and against all claims, demands, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

7.11 Payment

7.11.1 Payments shall be made promptly by KPPF and shall not be less than thirty (30) days from completion of satisfactory performance and submission of invoice together with other required and related documents or as otherwise prescribed in the contract.

7.11.2 Payment shall primarily be through KPPF's cheque or Real Time Gross Settlement (*RTGS*) or telegraphic transfer. Where applicable, a copy of a valid Performance Security, stamped, certified as authentic by KPPF, shall form part of the documents to be presented to KPPF before any payment is made.

7.12 Interest

Interest payment by KPPF is inapplicable in the contract.

7.13 Prices

7.13.1 Subject to clause 7.14 herein below, prices charged by the Supplier for services and/ or goods performed under the contract shall be fixed for the period of the contract with no variations.

7.13.2 A price that is derived by a pre-disclosed incorporation or usage of an internationally accepted standard formula shall not be deemed to be a price variation within the meaning of this clause.

7.14 Variation of Contract

KPPF and the Supplier may vary the contract only in accordance with the following: -

- a) the quantity variation of services and/ or goods shall not exceed twenty percent (20%) of the original contract quantity.*
- b) The cumulative value variation shall not exceed twenty five percent (25%) of the original contract value.*
- c) the quantity variation must be executed within the period of the contract.*

7.15 Assignment

The Supplier shall not assign in whole or in part its obligations to perform under this contract, except with KPPF's prior written consent.

7.16 Subcontracts

7.16.1 The Supplier shall notify KPPF in writing of all subcontracts awards under this contract if not already specified in the tender. Such notification, in the original tender or obligation under the Contract shall not relieve the Supplier from any liability or obligation under the Contract.

7.16.2 In the event that an award is given and the contract is sub-contracted, the responsibility and onus over the contract shall rest on the Supplier who was awarded.

7.17 Termination of Contract

7.17.1 KPPF may, without prejudice to any other remedy for breach of contract, by written notice sent to the Supplier, terminate this contract in whole or in part due to any of the following: -

- a) if the Supplier fails to perform any or all of the services and/ or goods within the period(s) specified in the contract, or within any extension thereof granted by KPPF.*
- b) if the Supplier fails to perform any other obligation(s) under the contract.*
- c) if the Supplier, in the judgment of KPPF has engaged in corrupt or fraudulent practices in competing for or in executing the contract.*
- d) by an act of force majeure.*
- e) if the Supplier becomes insolvent or bankrupt*
- f) if the Supplier has a receiving order issued against it, compounds with its creditors, or an order is made for its winding up (except for the purposes of its amalgamation or reconstruction), or a receiver is appointed over its or any part of its undertaking or assets, or if the Supplier suffers any other analogous action in consequence of debt.*
- g) if the Supplier abandons or repudiates the Contract.*

7.17.2 In the event that KPPF terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services and/ or goods similar to those undelivered or not rendered, and the Supplier shall be liable to KPPF for any excess costs for such similar services and/ or goods and or any other loss PROVIDED that the Supplier shall not be so liable where the termination is for convenience of KPPF.

7.17.3 The Parties may terminate the Contract by reason of an act of *force majeure* as provided for in the

contract.

7.17.4 The Contract may automatically terminate by reason of an act of *force majeure* as provided for in the Contract.

7.18 Liquidated Damages

Notwithstanding and without prejudice to any other provisions of the contract, if the Supplier fails to perform any or all of the services and/ or goods within the period specified in the contract, KPPF shall, without prejudice to its other remedies under the contract, deduct from the contract prices, liquidated damages sum equivalent to 0.5% of the performance price per day of delay of the delayed due services and/ or goods up to a maximum of ten percent (10%) of the performance price of the delayed due services and/ or goods.

7.19 Warranty

7.19.1 Where applicable, the Supplier warrants that the Services and/ or goods provided under the contract are of the highest quality or current specification and incorporate all recent improvements unless provided otherwise in the contract. The Supplier further warrants that any materials/ equipment provided under this contract shall have no defect arising from manufacture, materials or workmanship or from any act or omission of the Supplier that may develop under normal use of the materials/ equipment provided under the conditions obtaining in Kenya.

7.19.2 This warranty will remain valid for the period indicated in the special conditions of contract after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract.

7.19.3 KPPF shall promptly notify the Supplier in writing of any claims arising under this Warranty.

7.19.4 Upon receipt of such a notice, the Supplier shall, with all reasonable speed, remedy the defective services and/ or goods without cost to KPPF.

7.19.5 If the Supplier having been notified, fails to remedy the defect(s) within a reasonable period, KPPF may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which KPPF may have against the Supplier under the contract.

7.20 Resolution of Disputes

7.20.1 KPPF and the Supplier may make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

7.20.2 If, after forty (45) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may resort to resolution before a recognized local forum for the resolution of disputes.

7.21 Language and Law

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

7.22 Waiver

Any omission or failure by KPPF to exercise any of its rights or enforce any of the penalties arising from the obligations imposed on the Supplier shall in no way, manner or otherwise howsoever, alter, amend, prejudice, vary, waive or be deemed to alter, amend, prejudice, vary, waive or otherwise whatsoever any of KPPF's powers and rights as expressly provided in and as regards this contract.

7.23 Force Majeure

- 7.23.1 Force majeure means any circumstances beyond the control of the parties, including but not limited to:
- a) *war and other hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;*
 - b) *ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;*
 - c) *rebellion, revolution, insurrection, military or usurped power & civil war;*
 - d) *riot, commotion or disorder except where solely restricted to employees servants or agents of the parties;*
 - e) *un-navigable storm or tempest at sea.*
- 7.23.2 Notwithstanding the provisions of the contract, neither party shall be considered to be in default or in breach of its obligations under the Contract to the extent that performance of such obligations is prevented by any circumstances of *force majeure* which arise after the contract is entered into by the parties.
- 7.23.3 If either party considers that any circumstances of *force majeure* are occurring or have occurred which may affect performance of its obligations it shall promptly notify the other party and provide reasonable proof of such circumstances.
- 7.23.4 Upon the occurrence of any circumstances of *force majeure*, the Supplier shall endeavour to continue to perform its obligations under the contract so far as is reasonably practicable. The Supplier shall notify KPPF of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by *force majeure*. The Supplier shall not take any such steps unless directed so to do by KPPF.
- 7.23.5 If the Supplier incurs additional costs in complying with KPPF's directions under sub clause 7.23.4, then notwithstanding the provisions of the contract, the amount thereof shall be agreed upon with KPPF and added to the contract price.
- 7.23.6 If circumstances of *force majeure* have occurred and shall continue for a period of twenty one (21) days then, notwithstanding that the Supplier may by reason thereof have been granted an extension of time for performance of the contract, either party shall be entitled to serve upon the other seven (7) days' notice to terminate the contract. If at the expiry of the period of twenty-eight (28) days, *force majeure* shall still continue, the contract shall terminate.

B. SPECIAL CONDITIONS OF CONTRACT

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

The Special Conditions of Contract *hereinafter abbreviated as SCC* shall form part of the Conditions of Contract. They are made in accordance with the law and KPPF’s guidelines, practices, procedures and working circumstances. They shall amend, add to and vary the GCC. The clauses in this section need not therefore, be completed but must be completed by KPPF if any changes to the GCC provisions are deemed necessary. Whenever there is a conflict between the GCC and SCC, the provisions of the SCC shall prevail over those in the GCC.

No.	GCC Reference Clause	Particulars of SCC
1.	7.11 Terms of Payment	Payment is thirty (30) days from submission of invoice together with other required and related documents.

C. APPENDICES

Appendix A - Description of the Services

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

Appendix B - Schedule of Payments and Reporting Requirements

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

Appendix C - Breakdown of Contract Price

List here the elements of cost used to arrive at the breakdown of the lump-sum price:

- 1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix D - Services and Facilities Provided by the Procuring Entity