TENDER NO. KP1/9AA-3/PT/12/13-14
FOR SUPPLY, INSTALLATION AND COMMISSIONING OF THE SMART METERING SYSTEM.

MARCH 2014

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

(TENDER DOCUMENT FOR SUPPLY, INSTALLATION & COMMISSIONING)
(ONE ENVELOPE TENDER)

THE KENYA POWER & LIGHTING COMPANY LIMITED
CENTRAL OFFICE, STIMA PLAZA,
KOLOBOT ROAD, PARKLANDS,
P.O. BOX 30099-00100,
NAIROBI,
KENYA.

Telephones: +254-020-3201000; 3644000 Pilot Lines
Telephones: +254 -720-600070/1-5/; -733-755001/2-3 Cellular
Facsimile: +254-20-3514485; 3750240
Telegrams: "ELECTRIC"
E-Mail: Agatukui@kplc.co.ke
Website: www.kplc.co.ke

TABLE OF CONTENTS

SECTION	*CONTENTS*	*PAGE NO.*
SECTION I	INVITATION TO TENDER …….……..	4
SECTION II	TENDER SUBMISSION CHECKLIST…….	6
	Table of Paragraphs on Instructions to Tenderers…….……	9
SECTION III	INSTRUCTIONS TO TENDERERS (ITT).…….....	11
SECTION IV	BID DATA SHEET (Appendix to Instructions to Tenderers)….	37
SECTION V	SCHEDULE OF REQUIREMENTTS…….	39
SECTION VI (a)	SCHEDULE OF RATES AND PRICES…….	42
SECTION VII	SUMMARY OF EVALUATION……	45
	Table of Clauses on General Conditions of Contract…….....	57
SECTION VIII	GENERAL CONDITIONS OF CONTRACT…….……	59
SECTION IX	SPECIAL CONDITIONS OF CONTRACT……	77
SECTION X	TECHNICAL SPECIFICATIONS……...	78

ABBREVIATIONS AND ACRONYMS

BDS	Bid Data Sheet
BQ	Bills of Quantities
CBK	Central Bank of Kenya
CC	Conditions of Contract
DDP	Delivery Duty Paid
ERC	Energy Regulatory Commission
GoK	Government of Kenya
ICPAK	Institute of Certified Public Accountants of Kenya
JV	Joint Venture
KPLC	The Kenya Power & Lighting Company Limited
KSh./ KES	Kenya Shillings
PM	Project Manager
PPDA 2005	Public Procurement and Disposal Act, 2005
PPOA	Public Procurement and Oversight Authority
VAT	Value Added Tax

SECTION I - INVITATION TO TENDER

DATE: 03.03.2014

TENDER NO. KP1/9AA-3/PT/12/13-14 FOR SUPPLY, INSTALLATION AND COMMISSIONING OF THE SMART METERING SYSTEM

1.1 The Kenya Power & Lighting Company Ltd (KPLC) invites bids from eligible Tenderers for supply, installation and commissioning of **smart metering system.** Interested eligible Tenderers may obtain further information from the Chief Manager, Supply Chain & Logistics, The Kenya Power & Lighting Company Ltd at Stima Plaza, 3rd Floor, Kolobot Road, and P.O. Box 30099 – 00100 Nairobi, Kenya.

1.2 **Obtaining tender documents**

1.2.1 Tender documents detailing the requirements may be obtained from the Chief Manager, **Supply Chain & Logistics on the 3rd Floor, Stima Plaza, Kolobot Road, Nairobi,** on normal working days from Monday to Friday (excluding any public or gazetted holiday) beginning on **Wednesday 12th March,2014** between **9.00 a.m. & 12.30 p.m.** and **2.00 p.m. & 4.30 p.m.** upon payment of a non–refundable fee of **Kenya Shillings One Thousand** (**KSh. 1,000/=)** only or the equivalent amount in United States of America Dollars (US$) using the selling exchange rate ruling at the date of the tender document purchase provided by the Central Bank of Kenya *(See Central Bank of Kenya website-www.centralbank.go.ke.).* Payment shall be made in cash or by Bankers Cheque at the 1st Floor of Stima Plaza, Kolobot Road, Nairobi, Kenya.

1.2.2 Prospective bidders may also download the tender document from KPLC's website (www.kenya power.co.ke) free of charge.

1.2.2.1 Upon downloading the tender, bidders are required to immediately send/e-mail their Names and contact details to:

1. Supply Chain Manager, Procurement – agatukui@kplc.co.ke
2. Principal Supply Chain Officer (Procurement) – eanjichi@kplc.co.ke

1.3 **Submission of Tender documents**

Completed Tenders are to be enclosed in plain sealed envelopes marked **TENDER NO. KP1/9AA-3/PT/12/13-14 FOR SUPPLY, INSTALLATION AND COMMISSIONING OF THE SMART METERING SYSTEM**, addressed and deposited in the Company Secretary's Office located at KPLC premises, Stima Plaza, 7th Floor, Kolobot Road, Nairobi, Kenya so as to be received on or before **Tuesday, 15th April, 2014 , 10:00 am**

1.4 Prices quoted should be net inclusive of all taxes and delivery costs to the required site (where applicable) and must be in Kenya Shillings or a freely convertible currency in Kenya and shall remain valid for ninety (90) days from the closing date of the tender.

1.5 Tenders will be opened promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend in KPLC Auditorium at Stima Plaza, Kolobot Road, Parklands, Nairobi.

1.6 **Site visits**: Visits to sites where the smart metering system is to be deployed will be done on **Wednesday, 19th March, 2014** starting at **9:00 am**. Bidders wishing to participate in the site visits are advised to be at Stima Plaza, Kolobot Road, Nairobi on the date and time indicated above.

1.6 There will be a **pre-bid meeting** to be held at KPLC's premises, Stima Plaza, Auditorium, Kolobot Road, Nairobi, Kenya at on **Monday, 17th March, 2014** starting at **10:00 am**

SECTION II - TENDER SUBMISSION CHECKLIST

A. Tender Submission Format

This order and arrangement shall be considered as the Tender Submission Format, Non-Financial. Tenderers shall tick against each item indicating that they have provided it.

No.	Item	Tick Where Provided
1	Tender Security – Bank Guarantee or Letters of Credit (issued by Banks Licensed by the Central Bank of Kenya), Guarantee by a deposit taking Microfinance Institution, Sacco Society, the Youth Enterprise Development Fund or the Women Enterprise Fund.	
2	Declaration Form	
3	Duly completed Tender Form	
4	Confidential Business Questionnaire (CBQ)	
5	Duly completed Qualification Information Form and the required attachments	
6	Proposed Work Plan (Work method & schedule)	
7	Duly completed Site Visit Form (where applicable)	
8	Copy of Contractor's Certificate of Incorporation	
9	Certificate of Confirmation of Directors and Shareholding (C.R. 12) or equivalent (for foreign tenderers)	
10	Copy of Subcontractor's Certificate of Incorporation (where applicable)	
11	Copy of Contractor's Certificate of Registration for the relevant category from the Kenyan Authority (*and where applicable any other relevant body for international bidders)*	
12	Copy of Subcontractor's Certificate of Registration for the relevant category the Kenyan Authority (*and where applicable any other relevant body for international bidders)*	
13*	Copy of Valid Tax Compliance Certificate	
14	Copy of PIN certificate	
15	Type Test Certificates and their Reports and or Test Certificates and their Reports	
16	Copy of accreditation certificate for the testing laboratory as per ISO/ IEC 17025,	
17	Valid and current ISO 9001 Certificates or for locally manufactured or produced goods, valid Diamond Mark of Quality Certificate or Standardization Mark Certificates from the Kenya	

	Bureau of Standards (KEBS).	
18	Catalogues and or Brochures and or Manufacturer's drawings	
19	Duly completed Schedule of Guaranteed Technical Particulars	
20	Manufacturer's Authorisation and warranty	
21	Names with full contact as well as physical addresses of previous customers of similar works and reference letters from at least four (4) of the customers	
22	Names with full contact as well as physical addresses of previous customers of similar goods and reference letters from at least four (4) of the customers	
23	Statement on Deviations	
24	Valid copy of certificate of confirmation of directorship and shareholding issued and signed by registrar of companies or registrar of business names (for local tenderers).	
25	Price Schedule and/or Bill of Quantities	
26	Audited Financial Statements. The audited financial statements required must be those that are reported within eighteen (18) calendar months of the date of the tender document. *(For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original).*	
27	Any other document or item required by the tender document. (The Tenderer shall specify such other documents or items it has submitted)	
28	Bidders are required to submit one sample for each of the following; 1. Single Phase Smart Meter. 2. Three Phase Smart Meter. 3. Smart meter data concentrator and its accessories.	

Audite

<u>*NOTES TO TENDERERS</u>

1. Valid Tax Compliance Certificate shall be one issued by the relevant tax authorities and valid for at least up to the tender closing date. All Kenyan registered Tenderers must provide a valid Tax Compliance Certificate.

2. Foreign Tenderers must provide equivalent documents from their country of origin as regards Tax Compliance Certificate OR statements certifying that the equivalent documentation is not issued in the Tenderer's country of origin. The Statement(s) that equivalent documentation is not issued by the Tenderer's country should be original and issued by the Tax authorities in the Tenderer's country of origin.

3. Valid Registration Certificate shall be one issued by the relevant bodies.

TABLE OF PARAGRAPHS ON INSTRUCTIONS TO TENDERERS

Paragraph No.	Headings	Page No.
3.1	Definitions	11
3.2	Eligible Tenderers	12
3.3	Ineligible Tenderers	13
3.4	Declarations of eligibility	14
3.5	Joint Venture	14
3.6	Time for completion of works	15
3.7	Source of Funding	15
3.8	Conflict of Interest	15
3.9	One Tender per Tenderer	16
3.10	Site Visit and pre-bid meeting	16
3.11	Cost of Tendering	17
3.12	Contents of the Tender Document	17
3.13	Clarification of Documents	18
3.14	Amendment of Documents	18
3.15	Language of Tender	18
3.16	Documents Comprising the Tender	19
3.17	Tender Form	20
3.18	Tender Rates & Prices	20
3.19	Tender Currencies	21
3.20	Tenderer's Eligibility and Qualifications	21
3.21	Eligibility and Conformity of Works to Tender Documents	23
3.22	Demonstration(s), Inspection(s) and Test(s)	24
3.23	Warranty	24
3.24	Tender Security	25
3.25	Validity of Tenders	27
3.26	Alternative Offers	27
3.27	Number of Sets and Tender Format	27
3.28	Preparation and Signing of The Tender	27
3.29	Sealing and Outer Marking of Tenders	28
3.30	Deadline for Submission of Tender	28
3.31	Modification and Withdrawal of Tenders	29
3.32	Opening of Tenders	29
3.33	Process to be Confidential	29
3.34	Clarification of Tenders and Contacting KPLC	30

3.35 Preliminary Evaluation and Responsiveness…….…….....30
3.36 Minor Deviations, Errors or Oversights……31
3.37 Technical Evaluation and Comparison of Tenders…..…….31
3.38 Financial Evaluation……. 31
3.39 Preferences……...32
3.40 Debarment of a Tenderer…….…….32
3.41 Confirmation of Qualification for Award……32
3.42 Award of Contract….……..…….33
3.43 Termination of Procurement Proceedings……33
3.44 Notification of Award……33
3.45 Clarifications with the successful Tenderer(s)……34
3.46 Signing of Contract …….……34
3.47 Performance Security ……..35
3.48 Corrupt or Fraudulent Practices……..……. 36

SECTION III - INSTRUCTIONS TO TENDERERS (ITT)

3.1 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 begin with the first day and end on the last day of the month appearing on the cover page of the 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) *"NCA" wherever appearing means the National Construction Authority or its successor(s) and assign(s) where the context so admits*

g) *"PPOA" wherever appearing means The Public Procurement Oversight Authority or its successor(s) and assign(s) where the context so admits.*

h) *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.*

i) *"The Procuring Entity" means The Kenya Power and Lighting Company Limited or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as KPLC).*

j) *"The Tenderer" means the person(s) submitting its Tender for the performance of Works in response to the Invitation to Tender. This may include a business name, joint venture, private or public company, government owned institution or any combination of one or more of them.*

k) *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.*

l) *Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*

m) 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.

n) "Works" means the construction, repair, renovation or demolition of buildings, roads or other structures and includes the design, supply, installation, testing and commissioning of equipment and materials, site preparation and other incidental services where applicable.

m) Citizen contractors-a firm shall be qualified as a citizen contractor if its owners and shareholders are Kenyan citizens

n) Local contractors- a firm shall be qualified as a local contractor if it is registered in Kenya.

3.2 Eligible Tenderers

3.2.1 This Invitation to Tender is open to all Tenderers eligible as described in the Bid Data Sheet. A manufacturer can quote directly OR authorize only **ONE Agent** or only **ONE Supplier** to quote products from their factory. Besides the manufacturer's bid OR authorized agent/suppliers bid, **no other bid shall be considered from the same manufacturer**. Successful Tenderers shall perform the Works in accordance with this tender and the ensuing contract.

3.2.2 Agreements between undertaking to directly or indirectly fix purchase or selling prices or any other trading conditions are prohibited. Where this is discovered, the undertakings involved will not be eligible for award and all undertakings involved shall be disqualified.

3.2.3 The classification of eligibility shall be in accordance with that maintained by Kenya's NCA or its successor responsible for the classification of contractors.

3.2.4 Government or government owned institutions in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependant agency of the Government.

3.2.5 All Tenderers shall comply with all relevant licensing and/or registration requirements with the appropriate statutory bodies in Kenya such as the NCA, the ERC, the National Treasury, the County Treasury or any other relevant authority for international bidders.

3.2.6 Tenderers shall provide such evidence of their continued eligibility satisfactory to KPLC as KPLC may reasonably request.

3.2.7 Tenderers (including all members of a joint venture and subcontractors) shall provide a statement that they are not associated, or have not been associated in the past, directly or indirectly, with the Consultant or any other entity that has prepared the design, specifications, and other documents for this project or being proposed as Project Manager for this Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the Works, and any of its affiliates, shall not be eligible to tender

3.2.8 For purposes of this paragraph the Tenderer shall submit with its Tender, a valid copy of certificate of Confirmation of Directorships and Shareholding issued **and signed** by either the Registrar of Companies or Registrar of Business Names. This certificate must not be more than three (3) months old from the Date of the Tender Document. KPLC reserves the right to subject the certificate to authentication.

3.3 Ineligible Tenderers

3.3.1 Notwithstanding any other provisions of this tender, the following are not eligible to participate in the tender:-

a) KPLC's employees, its Board or any of its committee members.

b) Any Cabinet Secretary of the Government of the Republic of Kenya (GoK)

c) Any public servant of GoK.

d) Any member of a Board or Committee or any department of GoK.

e) Any person appointed to any position by the President of Kenya.

f) Any person appointed to any position by any Cabinet Secretary of GoK.

3.3.2 For the purposes of this paragraph, any relative i.e. spouse(s) and child(ren) of any person mentioned in sub-paragraph 3.3.1 is also ineligible to participate in the tender. In addition, a Cabinet Secretary shall include the President, Deputy-President or the Attorney General of GoK.

3.3.3 Tenderers shall provide the qualification information statement that the Tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by KPLC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation to Tender.

3.2.4 Tenderers shall not be under declarations as prescribed at Section XIII

3.2.5 Tenderers who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section XIII.

3.2.6 Those that are under the Declaration as prescribed at Section XIII whether currently or in the past shall not complete the Form. They will submit a suitable Form giving details, the nature and present status of their circumstances.

3.4 Declarations of Eligibility

3.4.1 Tenderers shall not be under declarations of ineligibility for corrupt, fraudulent practices and are not amongst persons mentioned in sub-paragraphs 3.3.1 and 3.3.2 above.

3.4.2 Tenderers who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section XIII.

3.4.3 Those that are under the Declaration for corrupt and fraudulent practices whether currently or in the past shall not complete the Form. They will submit a suitable Form giving details, the nature and present status of their circumstances.

3.5 Joint Venture

3.5.1 Tenders submitted by a joint venture (JV) of two or more firms (consortium), as partners shall comply with the following requirements: -

a) The Tender Form and in case of a successful tender, the Contract Agreement Form, shall be signed so as to be legally binding on all partners of the joint venture.

b) One of the partners shall be nominated and authorized as being lead contractor. The authorization shall be evidenced by submitting a Power of Attorney signed by legally authorized signatories of all the partners/directors.

c) The Power of Attorney which shall accompany the tender, shall be granted by the authorized signatories of all the partners as follows:-

(i.) for local and citizen contractors, before a Commissioner of Oaths or a Notary Public or Magistrate of the Kenyan Judiciary.

(ii.) for a foreign bidder, before a Notary Public, or the equivalent of a Notary Public, and in this regard the bidder shall provide satisfactory proof of such equivalence.

d) The lead contractor shall be authorized to incur liability and receive instructions for and on behalf of any and all the partners of the joint venture and the entire execution of the contract including payment shall be done exclusively with the lead contractor.

3.5.2 All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms, and a relevant statement to this effect shall be included in the authorization mentioned in paragraph 3.5.1 (b) above as well as in the Form of Tender and the Contract Agreement Form (in case of the accepted tender).

3.5.3 The JV must be in either of the following forms –

a) A registered JV agreement. The registration may either be at the Office of the Attorney General, or equivalent for the foreign firms.

b) A Letter of Intent to enter into a joint venture including a draft JV Agreement indicating at least the part of the Works to be executed by the respective partners.

a) The JV agreement should be signed by at least two directors from each company or firm that is a party to the JV

b) The JV agreement must be under the company or firm seal

c) The Letter of Intent should be signed by at least one director from each company or firm that is a party to the intended joint venture

3.5.4 A copy of the agreement entered into, or Letter of Intent by the joint venture partners shall be submitted with the tender.

3.6 Time for Completion of Works

The successful Tenderer will be expected to complete the Works by the required completion period as specified in the BDS.

3.7 Source of Funding

KPLC has set aside funds during the present financial year. It is intended that part of the proceeds of funds will be applied to cover the eligible payments under the ensuing contract for these Works.

3.8 Conflict of Interest

3.8.1 A Tenderer *(including all members of a joint venture and subcontractors)* shall not have a conflict of interest. A Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this tendering process if they:-

a) are associated or have been associated in the past directly or indirectly with employees or agents of KPLC or a member of the Board or committee of KPLC

b) are associated or have been associated in the past directly or indirectly with a firm or company or any of their affiliates which have been engaged

by KPLC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the execution, completion and maintenance of the Works under this Invitation to Tender

c) have controlling shareholders in common

d) receive or have received any direct or indirect subsidy from any of them

e) have a relationship with each other, either directly or through common third parties, that puts them in a position to have access to information about, or influence on the tender of another Tenderer, or influence the decisions of KPLC regarding this tendering process

f) submit more than one Tender in this tendering process.

3.8.2 A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the Works and related services that are the subject of this Tender.

3.9 One Tender per Tenderer

3.9.1 A firm or company shall submit only one Tender in the same tendering process, either individually or as a partner in a joint venture.

3.9.2 No firm or company can be a sub-contractor while submitting a Tender individually or as a partner in a joint venture in the same tendering process.

3.9.3 A company or firm, if acting in the capacity of sub-contractor in any Tender may participate in more than one Tender but only in that capacity.

3.9.4 A Tenderer who submits or participates in more than one tender *(other than as a sub-contractor or in cases of alternatives that have been permitted or requested)* will cause all tenders in which the Tenderer has participated to be disqualified.

3.10 Site Visit and Pre-Bid Meeting

3.10.1 The Tenderer, at the Tenderer's own responsibility and risk is advised to visit and examine the site of Works and its surrounding and obtain all information that may be necessary for preparing the tender and entering into a contract for the Works. The cost of visiting the site shall be at the Tenderer's own expense.

3.10.2 KPLC may conduct a site visit and pre-bid meeting. The purpose of the pre-bid meeting shall be to clarify issues and answer any questions that may be raised at that stage.

3.10.3 The Tenderer's designated representative is invited to attend a site visit and prr-bid meeting which if convened will take place at the venue and time stipulated in the BDS.

3.10.4 The Tenderer is requested as far as possible to submit any questions in writing or be electronic means to reach KPLC before the pre-bid meeting.

3.10.5 Minutes of the pre-bid meeting including the text of the questions raised and the responses given together with any response prepared after the pre-bid meeting will be transmitted within the time stated in the BDS to all purchasers of the Tender Document.

3.10.6 Non-attendance during the site visit or the pre-bid meeting will not be a cause of disqualification of the Tender unless specified to the contrary in the BDS.

3.11 Cost of Tendering

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

3.11.2 The price to be charged for the Tender Document shall be as indicated in the Invitation to Tender but in any case not exceeding KSh 1,000/=.

3.12 Contents of the Tender Document

3.12.1 The Tender Document comprises the documents listed below and Addendum (where applicable) issued in accordance with paragraph 3.14 of these Instructions to Tenderers: -

a) Invitation to Tender
b) Tender Submission Checklist
c) Instructions to Tenderers
d) Bid Data Sheet
e) Schedule of Requirements
f) Bill of Quantities
g) Summary of Evaluation Process/Evaluation Criteria
h) General Conditions of Contract
i) Special Conditions of Contract
j) Technical Specifications
k) Drawings
l) Tender Form
m) Confidential Business Questionnaire Form
n) Manufacturer's Authorization Form
o) Manufacturer's Warranty
p) Tender Security Forms
q) Declaration Form
r) Contract Agreement Form
s) Performance Security Forms

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

3.12.3 All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as "Private and Confidential".

3.13 Clarification of Documents

A prospective Tenderer requiring any clarification of the Tender Document may notify the Supply Chain Manager (Procurement) in writing or by post at KPLC's address indicated in the Invitation to Tender. KPLC will respond in writing to any request for clarification of the Tender documents, which it receives **not later than seven (7) days prior to the deadline for the submission of Tenders, prescribed by KPLC.**

Written copies of KPLC's response *(including an explanation of the query but without identifying the source of inquiry)* will be sent to all prospective Tenderers that have duly received the Tender Document.

3.14 Amendment of Documents

3.14.1 At any time prior to the deadline for submission of Tenders, KPLC, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the tender documents by amendment.

3.14.2 All prospective Tenderers that have received the tender documents will be notified of the amendment(s) *(hereinafter referred to or otherwise known as addendum)* in writing and will be binding on them.

3.14.3 In order to allow prospective Tenderers reasonable time in which to take the amendment into account in preparing their Tenders, KPLC, at its discretion, may extend the deadline for the submission of Tenders.

3.15 Language of Tender

The Tender prepared by the Tenderer, as well as all correspondence and documents relating to the tender, exchanged between the Tenderer and KPLC, shall be written in English language, provided that any printed literature furnished

by the Tenderer may be written in another language provided that they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the Tender, the English translation shall govern. The English translation shall be on the Tenderer's letterhead and shall be signed by the duly authorized signatory signing the Tender and stamped with the Tenderer's stamp.

3.16 Documents Comprising the Tender

The Tender prepared and submitted by the Tenderers shall include but not be limited to all the following components: -

a) Declaration Form, Tender Form and Priced Bill of Quantities (BQ) duly completed

b) Documentary evidence that the Works and any ancillary services thereto to be performed by the Tenderer conform to the tender documents

c) Technical Proposal in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the Works requirements and the completion time. Those details should include the following:-

- *(i.) a statement of work methods i.e. Methodology*
- *(ii.) major items of equipment proposed to carry out the Contract*
- *(iii) an undertaking that the items in c (ii) will be available for the execution of the Contract.*

d) Tender Security furnished in accordance with the Tender requirements

e) Power of Attorney authorizing the signatory of the Tender to commit the Tenderer in accordance with the Tender requirements.

f) A detailed list of previous clients as prescribed in the BDS for similar Works on tender and their contact addresses including e-mail shall be submitted with the Tender for the purpose of reference, or for evaluation

g) Statement of Deviations, if any, from the tender requirements on a separate sheet of paper clearly indicating –

- *(i.) the specific tender document requirement*
- *(ii.) the deviation proposed by the Tenderer*
- *(iii.) the technical specifications of the deviation*
- *(iv.) the design, if any, of the deviation*
- *(v.) justification or reason for the deviation*
- *(vi.) the Tenderer's cost of that deviation and the Tenderer's estimate of the cost of complying with KPLC's requirement without the deviation.*

h) In case of a tender submitted by a joint venture, either of the following –

(i.) the registered joint venture agreement, or,

(ii.) a Letter of Intent to enter into a joint venture including a draft JV agreement indicating at least the part of the Works to be executed by the respective partners.

j) Any information or other materials required to be completed and submitted by Tenderers as specified in the Tender Document

3.17 Tender Forms

The Tenderer shall complete and sign the Tender Form and all other documents furnished in the Tender Document, indicating the Works to be performed, a brief description of the Works, quantities, and prices amongst other information required.

3.18 Tender Rates and Prices

3.18.1 The Tenderer shall indicate on the Price Schedule and/or Bill of Quantities, the unit rates and prices (where applicable) and total tender price of the Works it proposes to perform under the contract.

3.18.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Price Schedule and/or BQs. Items for which no rates or price is entered by the Tenderer will not be paid for by KPLC when executed and shall be deemed covered by other rates and prices in the Price Schedule and/or BQs.

3.18.3 Prices and rates indicated on the Price Schedule and/or BQs shall be inclusive of all costs for the Works including insurances, duties, levies, Value Added Tax (V.A.T), Withholding Tax and other taxes payable and delivery to the premises of KPLC (where applicable) or other specified site(s). No other basis shall be accepted for evaluation, award or otherwise.

3.18.4 Price Schedule and/or BQ rates and prices to be submitted (quoted) by the Tenderer shall remain fixed for the contract duration.

3.18.5 For the avoidance of doubt, Tenderers shall quote on Delivered Duty Paid *(DDP)* basis. No other basis shall be accepted for evaluation, award or otherwise.

3.18.6 A price that is derived by a disclosed incorporation or usage of an internationally accepted standard formula shall be acceptable within the meaning of this paragraph.

3.19 Tender Currencies

3.19.1 For Works that the Tenderer will provide from within or outside Kenya, the prices shall be quoted in Kenya Shillings, or in another freely convertible currency in Kenya. The currency quoted must be indicated clearly on the Price Schedule and/or BQs.

3.19.2 The exchange rate to be used for currency conversion for evaluation purposes shall be the Central Bank of Kenya selling rate ruling on the Tender closing date. *(Please visit the Central Bank of Kenya website).*

3.20 Tenderer's Eligibility and Qualifications

3.20.1 Pursuant to paragraph 3.16, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to tender and its qualifications to execute, complete and maintain the Works in the contract if its Tender is accepted.

3.20.2 The documentary evidence of the Tenderer's qualifications to perform the contract if its Tender is accepted shall be established to KPLC's satisfaction –

a) that, in the case of a Tenderer offering to supply goods under the contract which the Tenderer did not manufacture or otherwise produce, the Tenderer has been duly authorized by the goods' manufacturer or producer to supply the goods. The authorization shall strictly be in the form and content as prescribed in the Manufacturer's Authorization Form in the Tender Document.

b) that the Tenderer has the financial capability necessary to perform the contract. The Tenderer shall be required to provide -

(i.) Audited Financial Statements (Audited Accounts) that are reported within eighteen (18) calendar months of the date of the tender document. The Statements must be stamped and signed by the Auditors who must be currently registered by ICPAK.

(ii.) For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six (6) months prior to the Date of the Tender Document. The copies should be certified by the Bank issuing the statements. The certification should be original.

(i.) A valid and current Tax Compliance Certificate (TCC) issued by KRA. The Tenderer is strongly advised to confirm the authenticity of the TCC with KRA's Compliance Department to avoid rejection of its Tender.

(iv.) evidence of adequacy of working capital for this Contract eg. access to line(s) of credit and availability of other financial resources

c) that the Tenderer has the technical and/or production capability necessary to perform the contract.

d) that, in the case of a Tenderer not doing business within Kenya, the Tenderer is or will be (if awarded the contract) represented by an agent in Kenya equipped and able to carry out the Tenderer's maintenance, repair, spare parts and stocking obligations prescribed in the Conditions of Contract and or in the Technical Specifications.

e) that the Tenderer has the technical and management capability necessary to perform the contract. These are as per the Qualification Information Form which includes :-

(i.) documents showing qualifications and experience of key site management and technical personnel proposed for the Contract.

(ii.) employment records including contracts of employment for all key personnel

(ii.) The Tenderer's undertaking that the key site management and technical personnel will be available for the contract

(iii.) List and evidence of ownership/lease of contractor's equipment proposed for carrying out the Works

f) that the Tenderer is duly classified and currently registered by NCA, ERC, the National Treasury, the County Treasury or any other relevant authorised body as capable of performing the Works under the contract. The Tenderer will furnish KPLC with a copy of the registration certificate and copy of renewal receipt. KPLC reserves the right to subject the certificate and receipt to authentication.

g) information regarding any litigation or arbitration current or during the last five (5) years, in which the Tenderer is involved, the parties concerned and disputed amount; and

h) detailed proposals for subcontracting components of the Works amounting to more than twenty percent (20%) of the Contract Price.

3.20.3 Tenderers with a record of unsatisfactory or default in performance obligations in any contract shall not be considered for evaluation or award. For the avoidance of doubt, this shall include any Tenderer with **unresolved case(s)** in its obligations for more than two (2) months in any contract.

3.21 Eligibility and Conformity of Works to Tender Documents

3.21.1 The Tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the Tender Document of all the Works that the Tenderer proposes to perform under the contract.

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

3.21.3 The documentary evidence of conformity of the Works to the Tender Document may be in the form of literature, drawings, and data, and shall (where applicable) consist of: -

a) *a detailed description of the essential technical and performance characteristics of the Works whether in brochures, catalogues, drawings or otherwise,*

b) *a list giving full particulars, including available source and current prices of spare parts, special tools and other incidental apparatus necessary for the proper and continuing performance of the Works for a minimum period of six (6) months following usage of the Works after the official handing over to KPLC, and,*

c) *Duly completed Schedule of Guaranteed Technical Particulars (GTP) as per Tender Specifications demonstrating substantial responsiveness of the goods and service to those specifications and, if any, a statement of deviations and exceptions to the provisions of the Technical Specifications.*

d) *duly completed Price Schedule and/or BQs' in compliance with KPLC's schedule of requirements and/or BQs requirements or, a Statement of Deviations and exceptions to the provisions of KPLC's schedule of requirements and/or BQs' requirements.*

For (a), (b) and (c) above, the literature, drawings and data shall be those from the Manufacturer.

3.21.4 For purposes of the documentary and other evidence to be furnished pursuant to sub-paragraphs 3.21.1, 3.21.2 and paragraph 3.22, the Tenderer shall note that standards for workmanship, material, and equipment, designated by KPLC in its schedule of requirements and/or BQs' are intended to be descriptive only and not restrictive. The Tenderer may adopt higher standards in its Tender, provided that it

demonstrates to KPLC's satisfaction that the substitutions ensure substantial equivalence to those designated in the BQs'.

3.22 Demonstration(s), Inspection(s) and Test(s)

3.22.1 Where required, all Tenderers shall demonstrate ability of performance of the required Works in conformity with the schedule of requirements and/or Bills of Quantities.

3.22.2 KPLC or its representative(s) shall have the right to inspect/ test the Tenderer's capacity, equipment, premises, and to confirm their conformity to the tender requirements. This shall include the quality management system. KPLC's representative(s) retained for these purposes shall provide appropriate identification at the time of such inspection/ test.

3.22.3 The bidder shall meet the cost of demonstration, inspection and test while KPLC shall meet the cost of air travel to the nearest airport and accommodation of its nominated officers inspecting and witnessing tests. Where conducted on the premises of the Tenderer(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to KPLC. In all cases, the equipment used for tests must be validly calibrated by the national standards body and a copy (ies) of the calibration certificate(s) must be submitted with the test report(s).

3.22.4 Demonstration and/or Inspection and/or Test Report(s) shall be completed upon conclusion of the demonstration/ inspection/ tests. This Report will be considered at time of evaluation and or award.

3.23 Warranty

3.23.1 Where required in the Tender, all Tenderers must also provide a Warranty that warrants that any part of the Works that comprises any equipment, the equipment to be provided under the contract are new, unused and or are of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender.

3.23.2 The Warranty shall also warrant that the equipment in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use or application of the equipment under the conditions obtaining in Kenya.

3.23.3 The Warranty will remain valid for a minimum of twelve (12) months after the equipment, or any part thereof as the case may be, have been commissioned as indicated in the contract.

3.24 Tender Security

3.24.1 The Tenderer shall furnish, as part of its Tender, a tender security for the amount specified in the BDS.

3.24.2 The tender security shall be either one or a combination of the following:-

a) an original Bank Guarantee from a commercial bank licensed by the Central Bank of Kenya (CBK) that is strictly in the form and content as prescribed in the Tender Security Form (Bank Guarantee) in the Tender Document. The bank must be located in Kenya.

b) For local bidders, Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC shall be prepaid by the Tenderer. The LC must contain all the mandatory conditions of payment to KPLC as prescribed in the Tender Security (Letters of Credit) provided in the Tender Document.

c) For foreign bidders, Standby Letters of Credit (LC) confirmed by a bank in Kenya. All costs, expenses and charges levied by all banks party to the LC including confirmation charges shall be prepaid by the Tenderer. The LC must contain all the mandatory conditions of payment to KPLC as prescribed in the Tender Security (Letters of Credit) provided in the Tender Document.

d) An original Guarantee by a deposit taking Microfinance Institution, Sacco Society, Youth Enterprise Development Fund or the Women Enterprise Fund, that is strictly in the form and content as prescribed in the Tender Security Form

3.24.3 The Tender Security is required to protect KPLC against the risk of the Tenderer's conduct which would warrant the security's forfeiture pursuant to paragraph 3.24.10.

3.24.4 The Tender Security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be issued by a commercial bank located in Kenya and licensed by the Central Bank of Kenya or a deposit taking Microfinance Institution, Sacco Society, Youth Enterprise Development Fund or the Women Enterprise Fund. The bank or institution must be located in Kenya.

3.24.5 The Tender Security shall be valid for thirty (30) days beyond the validity of the tender.

3.24.6 KPLC shall seek authentication of the Tender Security from the issuing bank. It is the responsibility of the Tenderer to sensitise its issuing bank/institution on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed five (5) days from the date of KPLC's query. Should there be no conclusive response by the bank/institution within this period, such Tenderer's Tender Security may be deemed as invalid and the bid rejected.

3.24.7 Any Tender not secured in accordance with this paragraph will be rejected by KPLC as non-responsive, pursuant to paragraph 3.35.

3.24.8 The unsuccessful Tenderer's Tender Security will be released as promptly as possible, in any of the following circumstances: -

a) the procurement proceedings are terminated

b) KPLC determines that none of the submitted Tenders is responsive

c) a contract for the procurement is entered into

d) the Tenderer does not qualify for Financial Evaluation in accordance with paragraph 3.31.

3.24.9 The successful Tenderer's Tender Security will be released upon the successful Tenderer's signing the contract, pursuant to paragraph 3.32 and furnishing an authentic Performance Security, pursuant to paragraph 3.37.

3.24.10 The Tender Security shall be forfeited –

a) if the Tenderer withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which the Tenders must remain valid

b) if the Tenderer rejects a correction of an arithmetic error

c) if the Tenderer fails to enter into a written contract in accordance with paragraph 3.48

d) if the successful Tenderer fails to furnish the performance security in accordance with paragraph 3.49

e) if the Tenderer fails to extend the validity of the tender security where KPLC has extended the tender validity period in accordance with paragraph 3.25.

3.24.11 In cases of a JV bid, without prejudice to the provisions relating to a JV, the Tender Security may be in the name of any or all parties to the JV and the above provisions on Tender Security shall apply.

3.25 Validity of Tenders

3.25.1 Tenders shall remain valid for one hundred and twenty (120) days after the date of tender opening as specified in the Invitation to Tender or as otherwise may be prescribed by KPLC, pursuant to paragraph 3.30. A Tender that is valid for a shorter period shall be rejected by KPLC as non-responsive.

3.25.2 In exceptional circumstances, KPLC may extend the Tender validity period. The extension shall be made in writing. The tender security provided under paragraph 3.24 shall also be extended. A Tenderer shall not be required nor permitted to modify its tender during the extended period.

3.26 Alternative Offers

Only main offers shall be considered, as alternative offers are not acceptable.

3.27 Number of Sets of and Tender Format

3.27.1 The Tenderer shall prepare three complete sets of its Tender, identifying and clearly marking the "ORIGINAL TENDER", "COPY 1 OF TENDER", and "COPY 2 OF TENDER" as appropriate. Each set shall be properly bound. The copies shall be a replica of the Original. Each copy will be deemed to contain the same information as the Original.

3.27.2 The Tender shall be bound and divided clearly in descending order as listed in the Tender Submission Checklist. The divisions are for clear identification and marking of the respective documents or information that are serially numbered in the Checklist.

3.27.3 The order and arrangement as indicated in the Tender Submission Checklist will be considered as the Tender Formats.

3.27.4 Any Tender not prepared and signed in accordance with this paragraph, in particular sub-paragraphs 3.20.1, 3.20.2 and 3.20.3 shall be rejected by KPLC as non-responsive, pursuant to paragraph 3.28.

3.28 Preparation and Signing of the Tender

3.28.1 The Original and all copies of the Tender shall be typed or written in indelible ink. They shall be signed by the Tenderer or a person or persons duly authorized to bind the Tenderer to the contract.

3.28.2 The authorization shall be indicated by a written Power of Attorney granted by the Tenderer to the authorized person before any of the following persons:-

a) For local Tenderers, a Commissioner of Oaths or a Notary Public or a Magistrate of the Kenyan Judiciary.

b) For foreign Tenderers, a Notary Public in the country of the Tenderer.

In either case above, the Power of Attorney shall accompany the Tender.

3.28.3 All pages of the Tender, including un-amended printed literature, shall be initialled by the person or persons signing the Tender and serially numbered.

3.28.4 The Tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the Tenderer, in which case such corrections shall be initialled by the person or persons signing the Tender.

3.28.5 KPLC will assume no responsibility whatsoever for the Tenderer's failure to comply with or observe the entire contents of this paragraph 3.21.

3.28.6 Any Tender not prepared and signed in accordance with this paragraph may be rejected by KPLC as non-responsive, pursuant to paragraph 3.28.

3.29 Sealing and Outer Marking of Tenders

3.29.1 The Tenderer shall seal the Original and each Copy of the Tender in separate envelopes or packages, duly marking the envelopes or packages as "ORIGINAL", "COPY 1 OF TENDER" and "COPY 2 OF TENDER". The envelopes or packages shall then be sealed in outer envelopes or packages.

3.29.2 The inner and outer envelopes or packages shall -

a) be addressed to KPLC at the address given in the Invitation to Tender,

b) bear the tender number and name as per the Invitation to Tender and the words, ***"DO NOT OPEN BEFORE 15.04.2014*** *as specified in the Invitation to Tender.*

3.29.3 All inner envelopes or packages shall also indicate the name and full physical, telephone, e-mail, facsimile and postal contacts of the Tenderer to enable the Tender to be returned unopened in circumstances necessitating such return including where Tenders are received late, procurement proceedings are terminated before tenders are opened.

3.29.4 If the envelopes or packages are not sealed and marked as required by this paragraph, KPLC will assume no responsibility whatsoever for the Tender's misplacement or premature opening. A tender opened prematurely for this cause will be rejected by KPLC and promptly returned to the Tenderer.

3.30 Deadline for Submission of Tenders

3.30.1 Tenders must be received by KPLC by the time and at the place specified in the Invitation to Tender.

3.30.2 KPLC may, at its discretion, extend this deadline for submission of Tenders by amending the tender documents in accordance with paragraph 3.7, in which case

all rights and obligations of KPLC and the Tenderer previously subject to the initial deadline, will therefore be subject to the deadline as extended.

3.31 Modification and Withdrawal of Tenders

3.31.1 The Tenderer may modify or withdraw its Tender after it has submitted it, provided that written notice of the modification, including substitution or withdrawal of the Tender is received by KPLC prior to the deadline prescribed for submission of tenders.

3.31.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraphs 3.20, 3.21 and 3.22. A withdrawal notice may also be sent by facsimile, electronic mail, cable or telex but followed by an original signed confirmation copy, postmarked not later than the deadline for submission of Tenders.

3.31.3 No Tender may be modified after the deadline for submission of Tenders.

3.31.4 No Tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period during which the Tender must remain valid. Any withdrawal of a Tender during this interval shall result in forfeiture of the Tenderer's Tender Security.

3.32 Opening of Tenders

3.32.1 KPLC shall open all Tenders promptly after the tender closing date and time, at the location specified in the Invitation to Tender or as may otherwise be indicated.

3.32.2 The Tenderer's names, tender modifications or withdrawals, the presence or absence of requisite Tender Security, the number of sets of tender documents duly received and such other details as KPLC, at its discretion, may consider appropriate, will be announced at the opening.

3.32.3 At the Tender opening, tender prices, discounts, and such other details as KPLC, at its discretion, may consider appropriate will be read out.

3.32.4 The Tenderers or their representatives may attend the opening and those present shall sign a register evidencing their attendance.

3.33 Process to be Confidential

3.33.1 After the opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations arising there-from shall not be disclosed to a Tenderer or other person(s) not officially concerned with such process until conclusion of that process.

3.33.2 Any effort by a Tenderer to influence KPLC or any of its staff members in the process of examination, evaluation and comparison of tenders and information or decisions concerning award of Contract may result in the rejection of the Tenderer's tender.

3.34 Clarification of Tenders and Contacting KPLC

3.34.1 To assist in the examination, evaluation and comparison of Tenders KPLC may, at its discretion, ask the Tenderer for a clarification of its Tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the Tender shall be sought, offered, or permitted.

3.34.2 The Tenderer is required to provide timely clarification or substantiation of the information that is essential for effective evaluation of its qualifications. It is the responsibility of the Tenderer to provide in writing the clarification or substantiation which should reach KPLC within five (5) days from the date of KPLC's query. Such writing may include by electronic mail, facsimile or postal mail. Should there be no conclusive response within this period, it shall result in the Tenderer's disqualification.

3.34.3 Save as is provided in this paragraph and paragraph 3.26 above, no Tenderer shall contact KPLC on any matter related to its Tender, from the time of the tender opening to the time the contract is awarded.

3.34.4 Any effort by a Tenderer to influence KPLC in its decisions on tender evaluation, tender comparison, tender recommendation(s) or contract award may result in the rejection of the Tenderer's Tender.

3.35 Preliminary Tender Evaluation

3.35.1 Prior to the detailed Technical and Financial evaluation, KPLC will determine the substantial responsiveness of each Tender. For purposes of this tender, a substantially responsive Tender is one that conforms to the requirements of Preliminary Evaluation. KPLC's determination of a Tender's responsiveness is to be based on the contents of the Tender itself without recourse to extrinsic evidence.

3.35.2 KPLC will examine the Tenders to determine whether they conform to the Preliminary Evaluation Criteria set out in Section VI Evaluation Criteria.

3.35.3 Notwithstanding the contents of the foregoing sub-paragraphs, if a Tender is not substantially responsive, it will be rejected at the earliest stage of evaluation by KPLC and cannot subsequently be made responsive by the Tenderer by correction of any non–conformity.

3.36 Minor Deviations, Errors or Oversights

3.36.1 KPLC may waive any minor deviation in a Tender that does not materially depart from the requirements of the goods and or services set out in the Tender Document.

3.36.2 Such minor deviation -

3.29.2.1 shall be quantified to the extent possible,

3.29.2.2 shall be taken into account in the evaluation process, and,

3.29.2.3 shall be applied uniformly and consistently to all qualified Tenders duly received by KPLC.

3.36.3 KPLC may waive errors and oversights that can be corrected without affecting the substance of the Tender.

3.37 Technical Evaluation and Comparison of Tenders

3.37.1 KPLC will further evaluate and compare the Tenders that have been determined to be substantially responsive, in compliance to the Schedule of Requirements and/or BQs set out in the Tender Document and as per the prescribed Evaluation Criteria.

3.37.2 The Implementation Plan is a critical aspect of the Tender. KPLC requires that the Works shall be performed at the time specified in the BDS. KPLC's evaluation of a tender will also take into account the Work Plan proposed in the Tender.

3.38 Financial Evaluation

3.38.1 The financial evaluation and comparison shall be as set out in the Summary of Evaluation Process. The comparison shall include:-

a) the rates and prices [which must be inclusive of insurances, duties, levies, Value Added Tax (V.A.T), Withholding Tax and other taxes payable (where applicable) and delivery to the premises of KPLC (where applicable) or other specified site(s)]

b) Confirming if there are any deviations in the Payment Schedule from what is specified in the Special Conditions of Contract

3.38.2 Where other currencies are used, KPLC will convert those currencies to the same currency using the selling exchange rate ruling on the date of tender closing provided by the Central Bank of Kenya.

3.38.3 Arithmetical errors will be rectified on the following basis - if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail.

3.38.4 The Tenderer will be notified of the correction of the arithmetical error(s). If the Tenderer does not accept the correction of the error(s), its Tender will be rejected, and its Tender Security forfeited.

3.39 Preferences

3.39.1 Where applicable, in the evaluation of tenders, exclusive preference shall be given to citizens of Kenya where -

3.39.1.1 the funding is one hundred percent (100%) from the Government of Kenya or a Kenyan body, and,

3.39.1.2 the amount of the tender as evaluated is below;

3.39.1.2.1 Ksh. 1 Billion in respect of roads works, construction materials and others used in transmission and conduction of electricity of which the material is made in Kenya.

3.39.1.2.2 Ksh. 500 Million in respect of other works

3.39.1.2.3 Ksh. 100 Million in respect of goods.

3.39.1.2.4 Ksh. 50 Million in respect of services.

3.39.2 For purposes of this paragraph the Tenderer shall submit with its Tender, a valid copy of certificate of Confirmation of Directorships and Shareholding issued **and signed** by either the Registrar of Companies or Registrar of Business Names. This certificate must not be more than three (3) months old from the Date of the Tender Document. Kenya Power reserves the right to subject the certificate to authentication.

3.40 Debarment of a Tenderer

A Tenderer who gives false information in the Tender about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

3.41 Confirmation of Qualification for Award

3.41.1 KPLC may confirm to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

3.41.2 The confirmation will take into account the Tenderer's financial, technical, and performance capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer,

pursuant to paragraph 3.20 as well as confirmation of such other information as KPLC deems necessary and appropriate. This may include factory, office and other facilities inspection and audits.

3.41.3 An affirmative confirmation will be a prerequisite for award of the contract to the Tenderer. A negative confirmation will result in rejection of the Tenderer's Tender, in which event KPLC will proceed to the next lowest evaluated responsive tender to make a similar confirmation of that Tenderer's capabilities to perform satisfactorily.

3.42 Award of Contract

3.42.1 KPLC will award the contract to the successful Tenderer whose Tender has been determined to be substantially responsive, compliant with the evaluation criteria and has been determined to be the lowest evaluated tender, and further, where deemed necessary, that the Tenderer is confirmed to be qualified to perform the contract satisfactorily.

3.43 Termination of Procurement Proceedings

3.43.1 KPLC may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

3.43.2 KPLC shall give prompt notice of the termination to the Tenderers, and, on request from any Tenderer, give its reasons for termination within fourteen (14) days of such request.

3.44 Notification of Award

3.44.1 Prior to the expiration of the period of tender validity, KPLC shall notify the successful Tenderer in writing that its Tender has been accepted.

3.44.2 The notification of award shall not constitute the formation of the contract until one is finally signed by both parties.

3.44.3 Simultaneously, and without prejudice to the contents of paragraph 3.34, on issuance of Notification of Award to the successful Tenderer, KPLC shall notify each unsuccessful Tenderer.

3.44.4 A notification of the tender outcome does not reduce the validity period for any tender security whether the Tenderer is successful or not, except where such tender security is officially released to the Bank/institution and/or the Tenderer and such Bank/institution discharged of all its obligations by KPLC prior to the expiry of its stated validity period.

3.45 Clarifications with the Successful Tenderer (s)

3.45.1 Clarifications may be undertaken with the successful Tenderer(s) relating to any or all of the following areas:-

a) A minor alteration to the technical details of the Schedule of requirements and/or BQ's

b) Reduction of quantities for budgetary reasons where the reduction is in excess of any provided for in the Tender Document

c) A minor amendment to the SCC.

d) Finalising payment arrangements

e) Mobilisation arrangements e.g. operational details

f) Agreed final delivery or Work Plan to accommodate any changes required by KPLC.

g) Methodology and Staffing

h) Clarifying details that were not apparent or could not be finalized at the time of tendering

3.45.2 Clarifications shall not change the substance of the Tender.

3.46 Signing of Contract

3.46.1 At the same time as KPLC notifies the successful Tenderer that its Tender has been accepted, KPLC will send the Tenderer the Contract Agreement provided in the Tender Document together with any other necessary documents incorporating all agreements between the Parties.

3.46.2 Within seven (7) days of the date of notification of award, the successful Tenderer shall only sign the Contract Form and all the documents specified in that Form and return them to KPLC within that period of seven (7) days.

3.46.3 KPLC shall sign and date the Contract in the period between not earlier than seven (7) days from the date of notification of contract award and not later than thirty (30) days after expiry of tender validity. Further, KPLC shall not sign the contract until and unless the authentic performance security is received in accordance with paragraph 3.47.

3.46.4 Failure of the successful Tenderer to sign the Contract, the award shall be annulled and its tender security forfeited in which event KPLC shall notify the next lowest evaluated Tenderer that its Tender has been accepted.

3.46.5 Paragraph 3.34 together with the provisions of this paragraph 3.42 will apply with necessary modifications with respect to the Tenderer notified under sub-paragraph 3.46.4.

3.47 Performance Security

3.47.1 Within fourteen (14) days of the date of notification of award from KPLC, the successful Tenderer shall furnish KPLC with a Performance Security. The Performance Security shall be denominated in Kenya Shillings and shall be valid shall be until a date sixty (60) days beyond the date of issue of the Certificate of Completion.

3.47.2 The Performance Security shall be either one or a combination of the following:

a) An original Bank Guarantee from a commercial bank licensed by the Central Bank of Kenya that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document. The bank issuing the Bank Guarantee must be located in Kenya.

b) For Local bidders, Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC shall be prepaid by the Tenderer. The LC must contain all the mandatory conditions of payment to KPLC as prescribed in the Tender Security (Letters of Credit) provided in the Tender Document.

c) For Foreign bidders, Standby Letters of Credit (LC) confirmed by a bank in Kenya. All costs, expenses and charges levied by all banks party to the LC including confirmation charges shall be prepaid by the Tenderer. The LC must contain all the mandatory conditions of payment to KPLC as prescribed in the Tender Security (Letters of Credit) provided in the Tender Document.

3.47.3 The successful Tenderer shall furnish a Performance Security being the sum of ten percent (10%) of the contract price.

3.47.4 KPLC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the successful Tenderer to sensitise its issuing bank on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such successful Tenderer's Performance Security may be deemed as invalid.

3.47.5 Failure of the successful Tenderer to furnish an authentic Performance Security, the award shall be annulled and the Tender Security forfeited, in which event KPLC may notify the next lowest evaluated Tenderer that its Tender has been accepted.

3.47.6 Paragraph 3.44, 3.45, 3.46 together with the provisions of this paragraph 3.47 will apply with necessary modifications, and as far as circumstances permit, with respect to the Tenderer notified under sub-paragraph 3.47.5

3.48 Corrupt or Fraudulent Practices

3.48.1 KPLC requires that Tenderers observe the highest standard of ethics during the procurement process and execution of contracts. When used in the present Regulations, the following terms are defined as follows: -

a) "Corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of public official in the procurement process or in contract execution;

b) "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of KPLC, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive KPLC of the benefits of free and open competition.

3.48.2 KPLC will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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

3.41 Monopolies and Restrictive Trade Practices

3.49.1 Agreements between undertakings, decisions by associations of undertakings, decisions by undertakings or concerted practices by undertakings which have as their object or effect the prevention, distortion or lessening of competition in trade in the goods tendered for are prohibited.

3.49.2 An agreement or a concerted practice of the nature prohibited above shall be deemed to exist between two or more undertakings if-

a. Any one of the undertakings owns a significant interest in the other or has at least one director or one substantial shareholder in common; or
b. Any combination of the undertakings engages in any of the below practices;
    i. Directly or indirectly fixing purchase or selling prices or any other trading conditions, and/or
    ii. Collusive tendering.

SECTION IV - BID DATA SHEET (Appendix to Instructions to Tenderers)

The following information regarding the particulars of the tender shall complement and or amend the provisions of the Instructions to Tenderers *hereinafter abbreviated as ITT*. Wherever there is a conflict between the provisions of the ITT and the Bid Data Sheet, the provisions of the BDS shall prevail over those of the ITT.

No.	ITT Reference Clause	Particulars of Appendix
1.	**3.2.1 Eligible Tenderers**	*All tenderers are eligible as it is a public tender.* ***A manufacturer shall give authorization to only one bidder. Only one bid from a manufacturer's product shall be eligible for this tender.***
2.	**3.6 Time for Completion of works**	*please indicate the estimated completion period in terms of weeks only.*
3.	**3.10.3 Site Visit and Pre-Bid Meeting** **3.10.6 Attendance of pre-bid meeting or site visit**	*Visits to sites where the smart metering system is to be deployed will be done on* ***Wednesday, 19th March, 2014*** *starting at* ***9:00 am****. Bidders wishing to participate in the site visits are advised to be at Stima Plaza, Kolobot Road, Nairobi on the date and time indicated above.* *There will be a* ***pre-bid meeting*** *to be held at KPLC's premises, Stima Plaza, Auditorium, Kolobot Road, Nairobi, Kenya at on* ***Monday, 17th March, 2014*** *starting at* ***10:00 am*** ***a)*** *the pre-bid meeting is* ***mandatory*** ***b)*** *the site visit is* ***mandatory***
4.	**3.16(f) – List of Previous Customers**	*The Tenderer shall submit at least four (4) names with full contact including telephone, email and physical addresses of previous clients of similar Works and letters from the previous clients confirming satisfactory completion of the contracts and on schedule.* *(KPLC Supply Chain (Procurement) & User Department, please indicate as required if different from the above).*

5.	**3.20 Documents of evidence of eligibility and qualification**	*Please refer to Division B of Technical Evaluation Criteria to give guidance on which documents to submit.*
7.	**3.21.3 (a) Catalogues, Brochures, Manufacturer's/ Principal's Drawings**	*Catalogues, Brochures, Manufacturer's/ Principal's Drawings documents are required.*
8	**3.22.4 Demonstration and/or Inspection and/or Test Report(s)**	*Pitch/demonstration shall be required* ***(only from the awarded bidders)*** *and reference site will be required from all bidders.*
9.	**3.23.3 Warranty/Warranty Period**	*The Warranty will remain valid for a minimum of twelve (12) months after the equipment, or any part thereof as the case may be, have been commissioned as indicated in the contract.*
10.	**3.24.1 Tender Security**	*Tender Security shall be* ***Kshs 1,000,000/=*** *or equivalent in United States Dollars (USD) using the selling exchange rate ruling on* ***14th April, 2014*** *as provided by the Central Bank of Kenya (see Central Bank of Kenya website-www.centralbank.go.ke)*
11	**3.25 Validity of Tenders**	*Tenders shall remain valid for one hundred and twenty* ***(120)*** *days after the date of tender opening*
12	**3.42 Award of contract**	***For Lot 1, 2& 3 the award shall be to the lowest evaluated bidder per lot.*** ***No bidder will be awarded more than one lot.***

SECTION V

SCHEDULE OF REQUIREMENTS

For Supply, installation and commissioning of the **smart metering system**

LOT 1

Item No.	Brief Description	Unit of Measure	Quantity
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	Piece	3,000
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	Piece	300
3	**Smart meter data concentrators**	Piece	300
4	**Head End system software**	Set	1
5	**Head End System (HES) server and its accessories**	Piece	
6	**Installation & commissioning of HES costs**		
7	**One year Head end system maintenance contract**		
8	**Overseas training for six(6) Kenya Power staff**		
9	**Local training in Nairobi for twenty (20) Kenya Power staff**		
10	**Spare parts (if applicable)**		

LOT 2

Item No.	Brief Description	Unit of Measure	Quantity
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	Piece	3,000
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	Piece	300
3	**Smart meter data concentrators**	Piece	300

4	**Head End system software**	Set	1
5	**Head End system server and its accessories**	Piece	
6	**Installation & commissioning of HES costs**	Piece	
7	**One year Head end system maintenance contract**		
8	**Overseas training for six(6) Kenya Power staff**		
9	**Local training in Nairobi for twenty (20) Kenya Power staff**		
10	**Spare parts (if applicable)**		

LOT 3

Item No.	Brief Description	Unit of Measure	Quantity
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	Piece	3,000
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	Piece	300
3	**Smart meter data concentrators**	Piece	300
4	**Head End system software**	Set	1
5	**Head End system server and its accessories**	Piece	
6	**One year Head end system maintenance contract**	Piece	
7	**Installation & commissioning of HES costs**		
8	**Overseas training for six(6) Kenya Power staff**		
9	**Local training in Nairobi for twenty (20) Kenya Power staff**		
10	**Spare parts (if applicable)**		

***NOTES:-**

1. All Tenderers must indicate the type, model (where applicable), dimensions and weight of the goods in their bid documents.
2. All deliveries shall be made to Kenya Power Bulk stores, Nairobi.
3. The delivery schedule shall be in **one lot within 75 days** from the receipt of official Purchase order.

SECTION VI (a)

SCHEDULE OF RATES AND PRICES

(TENDERER MUST INDICATE THE CURRENCY OF THE OFFER PRICE)

Delivery to Bulk stores, Nairobi
LOT 1

Item No.	Brief Description	Qty	Country of Origin	Unit price DDP (VAT Excl.)	Unit price DDP (VAT Incl.)	Total price DDP (VAT Incl.)
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	3,000				
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	300				
3	**Smart meter data concentrators**	300				
4	**Head End system software**	1				
5	**Head End system server and its accessories**					
6	**One year Head end system maintenance contract**					
7	**Installation & commissioning of HES costs**					
8	**Overseas training for six(6) Kenya Power staff**					
9	**Local training in Nairobi for twenty (20) Kenya Power staff**					
10	**Spare parts (if applicable)**					

LOT 2

Item No.	Brief Description	Qty	Country of Origin	Unit price DDP (VAT Excl.)	Unit price DDP (VAT Incl.)	Total price DDP (VAT Incl.)
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	3,000				
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	300				
3	**Smart meter data concentrators**	300				
4	**Head End system software**	1				
5	**Head End system server and its accessories**					
6	**One year Head end system maintenance contract**					
7	**Installation & commissioning of HES costs**					
8	**Overseas training for six(6) Kenya Power staff**					
9	**Local training in Nairobi for twenty (20) Kenya Power staff**					
10	**Spare parts (if applicable)**					

LOT 3

Item No.	Brief Description	Qty	Country of Origin	Unit price DDP (VAT Excl.)	Unit price DDP (VAT Incl.)	Total price DDP (VAT Incl.)
1	**Single phase smart static meters for active energy, 230 V, 5(80) A, 50 Hz**	3,000				
2	**Three phase smart static meters for active energy, 3x230/400 V, 10(100) A, 50 Hz**	300				
3	**Smart meter data concentrators**	300				
4	**Head End system software**	1				
5	**Head End system server and its accessories**					
6	**One year Head end system maintenance contract**					
7	**Installation & commissioning of HES costs**					
8	**Overseas training for six(6) Kenya Power staff**					
9	**Local training in Nairobi for twenty (20) Kenya Power staff**					
10	**Spare parts (if applicable)**					

NOTE:-

1. The offered unit price MUST be rounded to two decimal places. Where the Tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to two decimal places and used for the purposes of this tender.

SECTION VII - SUMMARY OF EVALUATION PROCESS

Evaluation of duly submitted tenders will be conducted along the following three main stages: -

7.1 Part I - Preliminary Evaluation Criteria Under Clause 3.35 of the ITT. These are mandatory requirements. This shall include confirmation of the following: -

7.1.1 S*ubmission of Tender Security - Checking its validity, whether it is Original; whether it is issued as required in the tender document; whether it is strictly in the format required in accordance with the sample Tender Security Form(s).*

7.1.2 Submission of Declaration Form(s) duly completed and signed.

7.1.3 Submission and considering Tender Form duly completed and signed.

7.1.4 Submission and considering the following:-

7.1.4.1 For Local Tenderers and subcontractors

a) Company or Firm's Registration Certificate

b) PIN Certificate.

c) Valid Tax Compliance Certificate.

d) Names with full contact as well as physical addresses of previous customers of similar goods and reference letters from at least four (4) previous customers.

7.1.4.2 For Foreign Tenderers and subcontractors

a) Company or Firm's Registration Certificate

b) PIN Certificate or its equivalent in the country of bidder or a statement from the tax authorities in the Tenderer's country of origin indicating that such certificate or its equivalent is not issued.

c) Valid Tax Compliance Certificate or its equivalent in the country of bidder or a statement from the tax authorities in the Tenderer's country of origin indicating that such certificate or its equivalent is not issued.

d) Names with full contact as well as physical addresses of previous customers of similar goods and reference letters from at least four (4) previous customers.

d) Names with full contact as well as physical addresses of previous customers of similar goods and reference letters from at least four (4) previous customers.

7.1.5 That the Tender is valid for the period required.

7.1.6 ***Site/survey visit signed and stamped form by authorized staff***

7.1.7 Valid certificate of registration by the relevant registration body as indicated in the tender.

7.1.8 Submission and considering that the required number of sets (original and two (2) copies) of Tender.

7.1.9 Submission and considering the Confidential Business Questionnaire:-

a) Is fully filled.

b) That details correspond to the related information in the bid.

c) That the Tenderer is not ineligible as per paragraph 3.3 of the ITT.

7.1.10 Submission and considering the Certificate of Confirmation of Directors and Shareholding if any one of the undertakings owns a significant interest in the other or has at least one director or one substantial shareholder in common as per paragraph 3.3 and 3.41of the ITT.

7.1.11 Submission and considering the Implementation Plan

7.1.12 Confirming that no manufacturer has authorized more than one bid as per clause 3.2.1

7.1.13 Record of unsatisfactory or default in performance obligations in any contract shall be considered. This shall include any Tenderer with unresolved case(s) in its performance obligations for more than two (2) months in any contract.

7.1.14Notwithstanding the above, considering any outstanding works where applicable and the capacity indicated by the tenderer.

Tenderers will proceed to the Technical Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation under clause 7.

7.2 Part II - Technical Evaluation under clause 3.41 of the ITT. It will include the following stages: -

Parts II (a) – These are <u>mandatory requirements</u>

Evaluation of the following Technical information against Tender Requirements and Specifications:-

7.2.1 Evaluation of the following technical information against Tender Requirements and Specifications:-

7.2.1.1 For goods manufactured outside Kenya, applicable relevant valid ISO 9001 certification

7.2.1.2 For goods manufactured in Kenya - valid KEBS Diamond Mark of Quality Certificate or KEBS Standardisation Mark Certificate.

7.2.1.3 Type Test Certificates and their Reports or Test Certificates and their Reports from the designated bodies for full compliance with Tender Specifications

7.2.1.4 The accreditation certificate for the testing laboratory to ISO/ IEC 17025.

7.2.1.5 Manufacturer's Authorization

7.2.1.6 As contained in the following documents –

a) Manufacturer's Warranty

b) Catalogues and or Brochures and or Manufacturer's drawings

c) Schedule of Guaranteed Technical Particulars as per Technical Specifications.

7.2.2 Detailed Technical Evaluation

The Schedule of Mandatory Guaranteed Technical Particulars (GTP) shall be evaluated against Tender Specifications to confirm compliance of the goods and services to the specifications and evaluation of any deviations and exceptions declared by the Tenderer.

Tenderers will proceed to the next evaluation stage if they qualify in compliance with Parts II (a) above.

Part II (b) - Technical Evaluation under clause 3.20 of the ITT. It will include the following stages:

DIVISION A

6.2.1 Verification of the following information:-

a) Relevant requested certificates and or documents.

b) Any other details required in the Tender.

DIVISION B

6.2.2 Scoring Stage. Tenders will be further evaluated against Table 1 below as follows:-

TABLE 1

Sr. No.	Kenya Power Criteria/ Requirements	Total Marks
1	**Previous Experience** The bidder must demonstrate: - a) that its Manufacturer is competent and regularly produces meters of the types specified b) that the manufacturer has adequate - (i.) technical knowledge (ii.) production capacity (iii.) practical experience c) that its manufacturer has satisfactorily supplied at least four (4) previous customers of similar scope and complexity to this tender in the last seven (7) years of the Date of this Tender Document.	**Ten (10)**
2	**Timely Completion** The bidder must demonstrate that it or its manufacturer has performed timely delivery and completion of previous orders of similar products i.e. Static meters for Active Energy, by providing:- a) a copy of a certificate from the previous customer, or b) a confirmation letter or its copy on the letterhead of the previous customer, or c) in lieu of (a) or (b) above, any other documentary evidence where conclusive proof of timely delivery can be easily seen or determined or ascertained by Kenya Power during evaluation. In all the above, the letter, certificate or other documentary evidence must not be	**Ten (10)**

	more than seven (7) years old from the Date of the Tender Document.	
3	**Production Capacity Qualification** The Bidder shall demonstrate adequate production capacity of the meters through:- a) submission of detailed curriculum vitae (CV) of key staff involved in the production. b) submission of detailed CV of key staff involved in the supply and delivery of the meters to customers. c) evidence of established quality assurance systems and organizations. This shall be through copies of valid ISO 9001 quality certificates or their equivalents as approved or recognized by KEBS.	**Ten (10)**
4	**Financial Capability** The bidder must demonstrate that:- a) it has adequate financial stability and status to meet its financial obligations, b) it does not anticipate change in its ownership and/or that of the manufacturer during the period of manufacture, c) if any change in ownership is anticipated, the bidder must define the scope and effect of such change.	**Three (3)**
5	**Warranty** a) All components supplied by the bidder are covered by the required warranty. b) The bidder must guarantee that any item that fails within the warranty period will be replaced at the bidder's cost. c) The replacement shall be delivered to Kenya Power within a period of 30 (thirty days) from the date of notification by Kenya Power to the bidder of failure of the meter.	**Two (2)**

6	**Skills Transfer** The bidder must provide the following:- a) Training organisation and administration (i.) Description of (a) above (ii.) Proposed site organisation for the training (iii.) Indicate key staff responsible for various sectors of the training (iv.) Submit CVs of the key staff to impart the training b) Training Plan (i.) Describe sequencing (ii.) Indicate time ad duration (iii.) State resources involved in implementation of each proposed training activity c) The Training Plan must be shown through a Bar Chart or Diagram. It will include:- (i.) Staff responsible for the training (ii.) Staffing schedule (iii.) Work Plan d) Training Program (i.) Provide full course description for all courses to be imparted (ii.) Outline course objectives for each course description (iii.) Detail work to be performed to achieve course objectives.	**Five (5)**
TOTAL SCORE OUT OF 40		

<u>NOTES TO TABLE 1:-</u>

1. Qualification and Scoring.

1.1 To qualify for further evaluation, the Tenderer ought to score a minimum of 24 marks.

1.2 To earn any mark the bidder must satisfy each and every tenet of each criterion to obtain the full award or marks for that particular criterion.

2. Certification/ Certified copies.

2.1 Wherever copies are requested or acceptable to Kenya Power, the copies should be certified by any of the following persons:-

a) an authorized representative of the company or firm or institution or body or organisation that issued the original document, or

b) a qualified Advocate and Commissioner of Oaths of the High Court of Kenya, or

c) a qualified Notary Public of the High Court of Kenya, or

d) the equivalent of (b) or (c) in the country of origin of the document or the country of origin of the holder of the document, or

2.2 the certification must be original.

2.3 A photocopy of a certified copy may not be accepted.

2.4 An electronically scanned copy of an original certified copy may be accepted.

2.5 A photocopy of any electronically scanned copy may not be accepted.

3. Curriculum Vitae (CV)

3.1 The CVs should be in the format provided or at the very least substantially in the format provided in the Tender Document.

3.2 Alternative staff shall not be proposed.

3.3 Kenya Power desires that there shall be no replacement for key staff whose CVs' are submitted without prior information to and where possible consultation with Kenya Power.

4. Combining Information

4.1 Kenya Power recognizes that part of the information requested is required to be in several separate documents. However, where the bidder feels that the information may be adequately contained in a single combined document for instance a CV, the bidder may do so. The bidder must state that the information variously requested is in the single combined document.

4.2 Where the bidder exercises this option of combining, care must be taken to ensure that all the information required of the several separate documents is included in the composite single document.

4.3 No information sought should be omitted at all.

4.4 The requirements as to several signatures and certifications in the different documents may be dispensed with. Instead a single signature *(and co-signature where required)* together with a single certification, all on each printed page of the combined document.

5. Previous Experience

5.1 Evidence of contracts of similar scope and complexity shall be through evidence of supply of at least **50,000 Smart Static Meters for Active Energy.**.

5.2 For purposes of clause 5.1 above the following details of each previous supply shall be demonstrated as follows:-

5.2.1 List giving the full names of the companies or firms or organisations.

5.2.2 The List shall contain the current full physical, postal, facsimile (if available), website (if any) and e-mail address of the organization. It should also include the contact person or office.

5.2.3 Brief specification of Static Meters project

5.2.4 Date of contract award

5.2.5 Date of completion on the contract

5.2.6 Actual date of completion and commissioning of the meters.

6. Production Capacity Qualification

6.1 The bidder should show that he manufactures the equipment according to IEC Standards

6.2 The bidder must demonstrate that Kenya Power shall not be confined to the bidder or any single manufacturer in its procurement of prepayment meters, software or hardware.

7. Skills Transfer

7.1 This should show that the bidder has capacity and adequate systems in place to ensure

that necessary skills are transferred to Kenya Power staff so as to facilitate correct installation of the meters by Kenya Power.

7.2 Kenya Power shall nominate suitable staff to be trained at Nairobi upon delivery of the meters.

7.3 Kenya Power's proposed duration and details of the training are as per the detailed technical specifications.

7.4 To demonstrate the relation between the overall plan for training, the bidder may present the training activities in the Bar Chart, where the other project activities are also presented.

Tenderers will proceed to Division C below only if they attain the minimum cut-off of 24 points in Division B above.

DIVISION C

This includes the following stages: -

6.2.3 Evaluation of the following technical information against Tender Requirements and Specifications:-

6.2.3.1 For goods manufactured outside Kenya, applicable relevant valid ISO 9001 certification

6.2.3.2 For goods manufactured in Kenya - KEBS Standardization Mark certificates

6.2.3.3 Type Test Certificates and their Reports or Test Certificates and their Reports from the designated bodies for full compliance with Tender Specifications

6.2.3.4 The accreditation or recognition or approval certificate for the testing authority from KEBS

6.2.3.5 Manufacturer's Authorization

6.2.3.6 As contained in the following documents –

a) Manufacturer's Warranty

b) Catalogues, Brochures and Manufacturer's drawings

c) Schedule of Guaranteed Technical Particulars as per Technical Specifications.

d) STSA Membership Certificate.

DIVISION D

6.2.4 In this final division of the Technical Evaluation, Tenderers shall be considered along the following parameters:-

a) The Schedule of Guaranteed Technical Particulars (GTP) shall be evaluated against

Tender Specifications to confirm compliance of the goods and services to the specifications and evaluation of any deviations and exceptions declared by the Tenderer.

b) Evaluation of compliance of submitted samples (where required) to technical specifications.

c) Identifying and determining any deviation(s) from the requirements; errors and oversights.

7.3 Part III – Financial Evaluation under clause 3.38 of the ITT.

Evaluation of the following Financial information against Tender Requirements and Specifications:-

NO.	***EVALUATION CRITERIA***
7.3.1	*a) Confirmation of the authenticity and sufficiency of the submitted Tender Security*
	b) Confirmation of and considering schedule of rates and prices and/or priced Bill of Quantities duly completed and signed.
	c) Checking that the Tenderer has quoted prices based on all costs including insurances, duties, levies, Value Added Tax (V.A.T), Withholding Tax and other taxes payable and delivery to the premises of KPLC or designated site(s)
	d) Where applicable, Conducting a financial comparison, including conversion of tender currencies into one common currency
	e) Correction of arithmetical errors
	f) Taking into account the cost of any deviation(s) from the tender requirements
7.3.2	*Ascertaining the financial capability through Last Financial Year's audited financial statements issued within the last 18 months which Statements should conform to International Accounting Standards One (IAS 1) which includes the following:-* *a) Turnover in the Last Financial Year i.e. twelve months of at least 40% of the total tendered value.* *b) Checking and considering that the Tenderer's solvency ratios are acceptable to KPLC and meet the threshold of:-* *(i) Solvency ratio of Debt to Assets Ratio which should be at least 1:1* *Or* *(ii) for companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, a spot* ***cash*** *balance of a minimum of 20% of the Tender Price. The same should be as evidenced in the certified copies of bank statements at least in* ***ALL*** *days of the month of the Date of the Tender Document.*
7.3.4	*Provide documentary evidence of liquid assets and/or credit facilities, net of other*

	contractual commitments and exclusive of any advance payments which may be made under the contract.)
7.3.5	*Considering information submitted in the Confidential Business Questionnaire against other information in the bid including:-* *a) Declared maximum value of business*

The Successful Tenderer shall be the one with the lowest evaluated price.

<u>*NOTES</u>: -

1. For purposes of evaluation, the exchange rate to be used for currency conversion shall be the selling exchange rate ruling on the date of tender closing provided by the Central Bank of Kenya. (Visit the Central Bank of Kenya website).

2. Total tender value means the Tenderer's total tender price inclusive of Value Added Tax (V.A.T) for the works it offers to provide.

3. For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they should submit certified copies of bank statements covering a period of at least six months prior to the date of the tender document. The copies should be certified by the Bank issuing the statements. The certification should be original.
4. The spot balance of 20% required will be that which is seen in the certified bank statements at least in any day of the month of the Date of the Tender Document.

Overall Tender Evaluation Criteria (B)

The tender evaluation criterion is weighted as follows:

The evaluation of the responsive bids will take into account technical factors, in addition to cost factors. Weighted Bid Score (**B**) will be calculated for each responsive bid using the following formula, which permits a comprehensive assessment of the bid price and the technical merits of each bid:

$$B \equiv \frac{C_{low}}{C} X + \frac{T}{T_{high}} (1 - X)$$

where:

C	=	Total Price for the bidder being evaluated
C_{low}	=	the lowest Evaluated Bid Price among responsive bids
T	=	the total Technical Score awarded to the bidder being evaluated
T_{high}	=	the Technical Score achieved by the bid that scored highest among all responsive bids
X	=	weight for the Price which is **0.3**

BASIS OF AWARD

The firm that scores the highest Evaluated Bid Score (**B**) will be eligible for the award of contract.

Note that each lot shall be independent and no bidder shall be awarded more than one lot.

TABLE OF CLAUSES ON GENERAL CONDITIONS OF CONTRACT

Clause No.	Headings	Page No.
8.1	Definitions……..…….	
8.2	Application…. ……	
8.3	Country of Origin…..……..	
8.4	Standards…….	
8.5	Use of Contract Documents and Information…….	
8.6	Patent Rights……. …….	
8.7	Performance Security……..……	
8.8	Approval before Manufacture……	
8.9	Inspections and Tests……..	
8.10	Pre – Shipment Verification of Conformity……	
8.11	Consignment…….....	
8.12	Packaging and Labeling …….	
8.13	Delivery and Documents for Foreign Goods …….	
8.14	Delivery and Documents for Domestic Goods ……..	
8.15	Transportation……..	
8.16	Liability and Insurance……..……..	
8.17	Payment ……..	
8.18	Interest ……	
8.19	Prices ……..…….……	
8.20	Variation of Contract …….	
8.21	Assignment …….	
9.22	Sub-Contracts …….....	
8.23	Project Manager…..……	
8.24	Works……..……	
8.25	Safety at work sites…….	
8.26	Discoveries…….	
8.27	Access to site……..…….....	
8.28	Instructions…….	
8.29	Dayworks…….	
8.30	Early Warning…….	
8.31	Defects……	

8.32 Completion and Taking Over ……..……..
8.33 Retention/Defects Liability …….
8.34 Early Completion……
8.35 Corrupt Gifts……..…….
8.36 Termination..……..……
8.37 Liquidated Damages …….
8.38 Warranty……..
8.39 Resolution of Disputes……
8.40 Language and Law……
8.41 Waiver……..

SECTION VIII – GENERAL CONDITIONS OF CONTRACT

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 KPLC'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.

8.1 Definitions

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

a) ***"Day"*** *means calendar day and "month" means calendar month.*

b) ***"Dayworks"*** *are work inputs subject to payment on a time basis for labour and the associated materials and plant.*

c) ***"Certificate of Acceptance"*** *means the certificate issued by KPLC to the Contractor confirming that the Works have been completed as per the terms of the Contract.*

d) ***"The Contract"*** *means the agreement entered into between KPLC and the Contractor, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.*

e) ***"The Contract Price"*** *means the price payable to the Contractor under the contract for the full and proper performance of its contractual obligations.*

f) ***"A Defect"*** *is any part of the Works not completed in accordance with the Contract.*

g) ***"The Defects Liability Certificate"*** *is the certificate issued by the Project Manager upon correction of defects by the Contractor.*

h) ***"The Defects Liability Period"*** *is the period specified in the Special Conditions of Contract when the Contractor is to remedy any defects in the Works.*

i) ***"The Goods"*** *includes all of the equipment, machinery, and or other materials, which the Contractor is required to supply to KPLC under the*

contract and install and commission under the contract as the case may be.

j) ***"Party"*** *means KPLC or the Contractor or both as the context so requires.*

k) ***"Project Manager"*** *is the employee of KPLC responsible for supervising the execution of the Works and administering the Contract.*

l) ***"Site"*** *is the area where the Works under this Contract are to be carried out as specified in the Contract.*

m) ***"The Contractor"*** *means the individual or firm supplying the goods and undertaking the Works under this Contract as the case may be 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.*

n) ***"Works"*** *means the construction, repair, renovation or demolition of buildings, roads or other structures or* ***the design, supply, installation, testing and commissioning of equipment and materials, site preparation and other incidental services where applicable.***

o) *Wherever used in the contract, "delivery" shall be complete or be deemed to be complete, unless the circumstances indicate otherwise, when the goods have been inspected and tested in accordance with the Contract and where KPLC does not signify its approval to the Contractor, but retains the goods without giving notice of rejection, on the expiration of thirty (30) days from date of documented receipt by the duly authorized representative of KPLC, of the goods, at KPLC stores or other indicated site.*

8.2 Application

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

8.3 Country of Origin

8.3.1 For purposes of this clause, "Origin" means the place where the goods were mined, grown, or produced.

8.3.2 The origin of Goods and Services is distinct from the nationality of the Contractor.

8.4 Standards

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

8.5 Use of Contract Documents and Information

8.5.1 The Contractor shall not, without KPLC'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 KPLC in connection therewith, to any person other than a person employed by the Contractor in the performance of the contract.

8.5.2 The Contractor shall not, without KPLC's prior written consent, make use of any document or information enumerated in clause 7.5.1 above.

8.5.3 Any document, other than the contract itself, enumerated in clause 7.5.1 shall remain the property of KPLC and shall be returned (including all copies) to KPLC on completion of the Contractor's performance under the contract if so required by KPLC.

8.6 Patent Rights

The Contractor shall indemnify KPLC against all third party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods of any part thereof in KPLC's country.

8.7 Performance Security

8.7.1 Within fourteen (14) days of the date of the notification of contract award, the Contractor shall furnish to KPLC the Performance Security which shall be either one or a combination of the following:-

a) 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.

b) Confirmed Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC including confirmation charges shall be prepaid by the successful Tenderer. Certain mandatory conditions of the LC shall be as prescribed in the Performance Security Form (LC) in the Tender Document.

8.7.2 The Performance Security shall be issued by a commercial bank licensed by the Central Bank of Kenya. The bank must be located in Kenya.

8.7.3 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.

8.7.4 Failure of the Contractor to furnish the Performance Security, the award shall be annulled and the Tender Security forfeited, in which event KPLC may notify the next lowest evaluated Tenderer that its Tender has been accepted.

8.7.5 The proceeds of the Performance Security shall be payable to KPLC as compensation for any loss resulting from the Contractor's failure to comply with its obligations in accordance with the contract without KPLC being required to demonstrate the loss it has suffered.

8.7.6 The Performance Security shall be valid for a minimum of sixty (60) days after satisfactory delivery for both Foreign and Local Contractors.

8.7.7 KPLC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Contractor to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed five (5) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Contractor's Performance Security may be deemed as invalid and the Contract nullified, unless information to the contrary is received by KPLC two (2) days before the expiry of the Contractor's Tender Security.

8.7.8 Subject to the provisions of this contract, the Performance Security will be discharged by KPLC and returned to the Contractor not earlier than thirty (30) days following the date of completion of the Contractor's obligations under the contract, including any warranty obligations, under the contract.

8.8 Approval before Manufacture

8.8.1 All technical details and design drawings for the items to be supplied shall be submitted by the Contractor to KPLC for approval before manufacture.

8.8.2 Should the Contractor fail to observe this condition of approval before manufacture, KPLC may decline to accept the goods, or the Contractor shall either replace them or make alterations necessary, but in any case, KPLC shall incur no liability howsoever.

8.9 Inspection and Tests

8.9.1 KPLC or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the contract specifications. KPLC shall notify the

Contractor in writing in a timely manner, of the identity of any representative(s) retained for these purposes.

8.9.2 Prior to the manufacture or production of the goods on order, KPLC reserves the right to inspect the manufacturing or production facility and the quality management system. The manufacturer or producer shall meet the cost of routine inspection while KPLC shall meet the cost of air travel to the nearest airport and accommodation of two of its nominated officers inspecting and witnessing tests.

8.9.3 It is the responsibility of the Contractor to confirm if this right is to be exercised. Such visit and or inspection shall in no way prejudice KPLC's rights and privileges.

8.9.4 Upon completion of manufacturing or production process, KPLC reserves the right to send two of its nominated officers to inspect the goods on order at the place of manufacture where inspection and acceptance tests as per tender specifications shall be carried out in their presence. Tests shall be done in accordance with the test standard(s) given in the Technical Specification of the goods on order.

8.9.5 The manufacturer or producer shall meet the cost of tests as per tender specifications while KPLC shall meet the cost of air travel to the nearest airport and accommodation of its two nominated officers inspecting and witnessing the tests.

8.9.6 The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at point of production, manufacture, delivery and or at the goods' final destination. If conducted on the premises of the Contractor or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to KPLC. In all cases, the equipment used for tests must be validly calibrated by the national standards body and a copy (ies) of the calibration certificate(s) must be submitted with the test report(s).

8.9.7 Complete test report(s) for all the goods as per Tender Specifications shall be submitted to KPLC for approval before packaging and shipment. No material or goods shall be shipped or delivered without written approval from KPLC.

8.9.8 Should any inspected or tested goods fail to conform to the specifications, KPLC shall reject the goods, and the Contractor shall either replace the rejected goods or make alterations necessary to meet specification requirements free of cost to KPLC. The period for replacement or alterations together with delivery to KPLC shall be fourteen (14) days or as may otherwise be specified in the notice of rejection.

8.9.9 The Contractor shall collect the rejected goods within fourteen (14) days from the date of notification of rejection. If the rejected goods are not collected within this period, the goods will be disposed of by KPLC guided by the Disposal of Uncollected Goods Act, Chapter 38 of the Laws of Kenya.

8.9.10 Notwithstanding any previous inspection(s) and test(s) KPLC shall inspect and may test the goods upon arrival at the indicated site. Where KPLC inspects and rejects the goods after the goods arrival, KPLC shall claim from the Contractor the full cost of the goods including delivery charges to KPLC Stores or other indicated site and other incidental costs incurred in relation thereof.

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

8.9.12 For the avoidance of doubt, any acknowledgement by KPLC on the Contractor's or sub-contractor's document shall not be conclusive proof or evidence of satisfactory delivery without duly authorized approval by KPLC.

8.9.13 Nothing in clause 7.9 shall in any way release the Contractor from any warranty or other obligations under this Contract.

8.10 Pre–Shipment Verification of Conformity (PVoC)

8.10.1 All Contractors of imported goods and or products must obtain a Certificate of Conformity issued by an authorized KEBS appointed partner prior to shipment.

8.10.2 The Certificate is a mandatory customs clearance document in Kenya. KEBS has appointed, Global Inspections South Africa (Pty) Ltd, (GSIA), China Certification and Inspection (Group) Company Ltd (CCIC), Agency Societe Generale de Surveillance S.A. (SGS) and INTERTEK, to perform the PVoC programme on their behalf depending on the country of supply origin. The cost of pre-shipment verification shall be borne by the Contractor.

8.11 Consignment

8.11.1 The terms shall be strictly on Delivered and Duty Paid (DDP) basis.

8.11.2 The Consignee shall be the supplier or supplier's agent whose responsibilities shall include payment of all Customs taxes, duties and levies, clearance of the goods, and delivery to KPLC stores. For avoidance of doubt, this includes Value Added Tax (VAT), Railway Development Levy (RDL) and Import Duties.

8.12 Packaging and Labelling

8.12.1 The Contractor shall provide such packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract.

8.12.2 The method of packaging, labeling and marking shall comply strictly with such special requirements as shall be specified and attached to the Tender and particular Order.

8.12.3 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.

8.12.4 The goods 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.

8.12.5 The Contractor shall enclose a packing list in each package and all documents relating to the Order shall show the Stores Code Number detailed against the items.

8.12.6 The labeling on each package shall include the following;

(i) General description of the item(s)

(ii) KPLC Order No……

(iii) Cautionary notes and handling instructions

(iv) Package number

Note that the contractor shall be the consignee of the goods in case of imported manufactured goods. The incoterm is DDP. The contractor shall pay all duties and taxes attracted by the goods imported and deliver the goods to the KPLC'S stores.

8.13 Delivery and Documents for Foreign Goods

8.13.1 Delivery and or shipment of the goods shall be made by the Contractor to the place and in accordance with the terms specified by KPLC in its Schedule of Requirements.

8.13.2 For imported goods, upon shipment, the Contractor shall notify KPLC and the insurance company, by papermail or facsimile the full details of the shipment including Order number, description of goods, quantity, the vessel, the airway bill number and the date, port of discharge. The Contractor shall courier, one copy to KPLC, a set of the following documents: -

a) The Contractor's invoice showing the goods description, quantity, unit price, total amount

b) Non-negotiable airway bill or bill of lading

c) Packing list identifying contents of each package

d) Insurance certificate, where applicable

e) Manufacturer's and or Contractor's credit number, Type Test and or Test Reports and their respective Certificates and KPLC's Official Order number shall be quoted on the shipping documents

f) Approved drawings, brochures, catalogues and technical details

g) Inspection Certificate issued by the nominated inspection agency, as per Clause 7.10 PVoC, and the Contractor's inspection report

h) Summary of Acceptance Test reports signed and approved by KPLC for the items offered, and,

i) Certificate of Origin of the goods.

8.14 Delivery and Documents for Domestic Goods

8.14.1 Delivery of the goods shall be made by the Contractor to the place and in accordance with the terms specified by KPLC in its Schedule of Requirements.

8.14.2 The Contractor shall notify KPLC of the full details of the delivered goods by delivering together with the goods a full set of the following documents:-

a) Copies of the Contractor's invoice showing the goods description, quantity, unit price and total price

b) Delivery note

c) Manufacturer's and or Contractor's warranty certificate

d) Packing list identifying contents of each package

8.14.3 It is the responsibility of the Contractor to ensure that the delivery documents are received by KPLC at the designated delivery point at the time of delivery.

8.14.4 Any late or non-submission of the delivery documents shall be treated as part of non-performance on the part of the Contractor and KPLC shall be entitled to call up the Performance Security.

8.15 Transportation

8.15.1 Transportation of the goods shall be the responsibility of the contractor.

8.16 Liability and Insurance

7.15.1 The goods supplied under the contract shall be fully insured by the Contractor against loss or damage incidental to manufacture, production or acquisition, transportation, storage and delivery in the manner specified in this Contract (Delivery Duty Paid terms).

8.16.2 The Contractor shall be responsible for and keep in force current appropriate insurance covers for its property and persons engaged in the performance of Works under the contract.

8.16.2 The Contractor shall (except in respect to losses, injuries or damage resulting from any act or neglect of KPLC) indemnify and keep indemnified KPLC 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.

8.17 Payment

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

8.17.2 Payment shall primarily be through KPLC'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 KPLC, shall form part of the documents to be presented to KPLC before any payment is made. The terms shall be strictly on Delivered and Duty Paid (DDP) basis.

8.17.3 Contractors who request for a Letter of Credit *(hereinafter abbreviated as LC) –*

a) Shall meet all the LC costs. Indicative costs levied by the banks include opening charges (0.25% per quarter), confirmation charges (0.25% flat), settlement (0.25% flat), acceptance charges (0.25% flat) and any amendment charges.

b) Any extension and or amendment charges and any other costs that may result from the Contractor's delays, requests, mistakes or occasioned howsoever by the Contractor shall be to the Beneficiary's account.

c) The maximum number of extensions and amendments shall be limited to two (2).

d) Should the Contractor require a confirmed LC, then all confirmation and any other related charges levied by both the Contractor's and KPLC's bank shall be to the Beneficiary's account.

e) The LC shall be opened only for the specific Order within the validity period of the contract.

f) LCs shall be partial for partial performance or full for whole performance as per the contract.

g) The Contractor shall be required to submit a proforma invoice for each lot for use in the placement of order and opening of the LC. The proforma invoice shall be on total DDP basis.

h) A copy of the Performance Security, stamped and certified as authentic by KPLC, whose expiry date should not be less than sixty (60) days from the LC expiry date, shall form part of the documents to be presented to the Bank before any payment is effected.

8.17.4 KPLC shall have the sole discretion to accept or decline any Contractor's payment request through Letters of Credit without giving any reason for such decline.

8.18 Interest

7.18.1 Interest payment by KPLC is inapplicable in the contract.

8.19 Prices

8.19.1 Subject to clause 7.18.2 herein-below, prices charged by the Contractor for goods delivered and services performed under the contract shall, **be fixed for the period of the contract with no variations.**

8.19.2 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.

8.20 Variation of Contract

KPLC and the Contractor may vary the contract only in accordance with the following: -

a) the quantity variation for goods shall not exceed ten percent (10%) of the original contract quantity.

b) the quantity variation for works does not exceed fifteen per cent of the original quantity.

b) the quantity variation must be executed within the period of the contract.

8.21 Assignment

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

8.22 Subcontracts

8.22.1 The Contractor shall notify KPLC 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 Contractor from any liability or obligation under the Contract.

8.22.2 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 Contractor who was awarded.

8.23 Project Manager

8.23.1 KPLC shall appoint a Project Manager who shall be an employee of KPLC and who will be responsible for supervising the execution of the Works. The names and contacts of the person appointed as the Project Manager shall be communicated to the Contractor once such appointment is made.

8.23.2 Except where otherwise specifically stated, the Project Manager will decide contractual matters between KPLC and the Contractor.

8.23.3 The Project Manager may delegate any of his duties and responsibilities to another KPLC employee and thereafter notify the Contractor of the person to whom such duties are delegated.

8.24 Works

7.24.1 The Contractor shall perform the Works in accordance with the specifications set out in the Contract.

8.25 Safety at Work Sites

8.25.1 The Contractor shall be responsible for the safety of all activities on the sites where Works are performed.

8.26. Discoveries

8.26.1 Anything of historical or other interest or of significant value unexpectedly discovered on site where the Works are being carried out shall be the property of KPLC. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

8.27 Access to Site (s)

7.27.1 The Contractor shall allow the Project Manager and any other person authorised by the Project Manager, access to the site (s) where Works are carried out and to any place where work in connection with the contract is being carried out or is intended to be carried out.

8.28 Instructions

8.28.1 The Contractor shall carry out all instructions of the Project Manager which are in accordance with the Contract.

8.29 Dayworks

8.29.1 If applicable, the Dayworks rates in the Contractor's tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

8.29.2 All work to be paid for as Dayworks shall be recorded by the Contractor on Forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

8.29.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

8.30 Early Warning

8.30.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the Works, increase the contract price or delay the execution of the Works.

The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and completion date. The estimate shall be provided by the Contractor as soon as reasonably possible.

8.30.2 The Contractor shall cooperate with the Project Manager in making and considering proposals on how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the Works and in carrying out any resulting instructions of the Project Manager.

8.31 Defects

8.31.1 The Project Manager shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a defect and to uncover and test any Works that the Project Manager considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor.

8.31 .2 The Project Manager shall give notice to the Contractor of any defects before the end of the Defects Liability Period which begins after issuance of the Certificate of Acceptance by KPLC to the Contractor. The Defects Liability Period shall be extended for as long as defects remain to be corrected.

8.31.3 When notice of a defect is given; the Contractor shall correct the notified defect within the length of time specified by the Project Manager's notice. If the Contractor has not corrected a defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

8.31.4 The Project Manager shall issue the Contractor with a Defects Liability Certificate after the defects are corrected.

8.32 Completion and taking over

8.32.1 Upon assessment by the Project Manager that the Works are complete, KPLC shall issue the Contractor with a Certificate of Acceptance.

8.33 Retention/Defects Liability

8.33.1 KPLC shall retain 10% of the Contract Price for the duration of the Defects Liability Period after issuing the Certificate of Acceptance for the whole of the Works.

8.34 Early Completion

7.33.1 No bonus for early completion of the Works shall be paid to the Contractor by the Employer.

8.35 Corrupt gifts

8.35.1 The Contractor shall not offer or give or agree to give to any person in the service of the KPLC any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other Contract for KPLC for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract with KPLC.

8.35.2 Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement and Disposal Regulations 2005 and the regulations made thereunder.

8.36 Termination

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

a) *if the Contractor fails to perform any obligation(s) under the contract.*

b) *if the Contractor in the judgment of KPLC has engaged in corrupt or fraudulent practices in competing for or in executing the contract.*

c) *by an act of force majeure.*

d) *if the Contractor becomes insolvent or bankrupt*

e) *if the Contractor 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 Contractor suffers any other analogous action in consequence of debt.*

f) *the Contractor stops work for 30 days when no stoppage of work is shown on the current program and the stoppage has not been authorised by the Project Manager;*

g) *the Project Manager gives notice that failure to correct a particular defect which is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;*

h) *if the Contractor abandons or repudiates the Contract*

8.36.2 KPLC may by written notice sent to the Contractor, terminate the Contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for KPLC's convenience, the extent to which performance, by the Contractor, of the Contract, is terminated and the date on which such termination becomes effective.

8.36.3 For the remaining part of the Contract after termination for convenience, KPLC may pay to the Contractor an agreed amount for partially completed satisfactory performance of the Contract.

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

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

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

8.36.7 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible. The Project Manager shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

8.37 Force Majeure

8.37.1 *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 and 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.

8.37.2 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.

8.37.3 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.

8.37.4 Upon the occurrence of any circumstances of *force majeure*, the Contractor shall endeavour to continue to perform its obligations under the contract so far as is reasonably practicable. The Contractor shall notify KPLC of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by *force majeure*. The Contractor shall not take any such steps unless directed so to do by KPLC.

8.37.5 If the Contractor incurs additional costs in complying with KPLC's directions under sub clause 8.37.4, then notwithstanding the provisions of the Contract, the amount thereof shall be agreed upon with KPLC and added to the contract price.

8.37.6 If circumstances of *force majeure* have occurred and shall continue for a period of twenty one (21) days then, notwithstanding that the Contractor 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.

8.38 Liquidated Damages

Notwithstanding and without prejudice to any other provisions of the Contract, if the Contractor fails to deliver any or all of the goods or complete the Works within the period specified in the contract, KPLC shall, without prejudice to its other remedies under the contract, deduct from the contract prices, liquidated damages sum equivalent to 0.5% of the delivered or shipment price (whichever is

applicable) per day of delay of the delayed items up to a maximum of ten percent (10%) of the delivered price of the delayed goods.

8.39 Warranty

8.39.1 The Contractor warrants that the Goods supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the contract. The Contractor further warrants that the goods supplied under this contract shall have no defect arising from manufacture, materials or workmanship or from any act or omission of the Contractor that may develop under normal use of the supplied goods under the conditions obtaining in Kenya.

8.39.2 This warranty will remain valid for one (1) year after the Goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port of loading in the source country, whichever period concludes earlier.

8.39.3 KPLC shall promptly notify the Contractor in writing of any claims arising under this warranty.

8.39.4 Upon receipt of such a notice, the Contractor shall, with all reasonable speed, replace the defective goods without cost to KPLC.

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

8.40 Resolution of Disputes

8.39.1 KPLC and the Contractor 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.

8.39.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may resort to resolution before a recognised local forum for the resolution of disputes.

8.41 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.

8.42 Waiver

Any omission or failure by KPLC to exercise any of its rights or enforce any of the penalties arising from the obligations imposed on the Contractor 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 KPLC's powers and rights as expressly provided in and as regards this contract.

SECTION IX – 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 KPLC'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 KPLC 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
	8.14 Terms of Payment	*The credit period shall be thirty (30) days from satisfactory delivery and submission of invoice together with other required and related documents.*
	8.20 Project Manger	*The Project Manager appointed by KPLC:* *Name:* *Address:* *Telephone:*
	8.36 Warranty Period	*This warranty will remain valid for one (1) year after the Goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port of loading in the source country, whichever period concludes earlier.*
	8.29 Defects Liability Period	*The Defect Liability period shall be provided by KPLC project Manager. The Defects Liability Period shall be extended for as long as defects remain to be corrected.*

SECTION X - TECHNICAL SPECIFICATIONS

SECTION XI - DRAWINGS

(KPLC User Department must provide in the Tender Document the Drawings and any other relevant detail pertaining to the drawings)

SECTION XII - STANDARD FORMS

(i) Tender Form

(ii) Confidential Business Questionnaire

(iii) Tender Security Form (Bank Guarantee)

(iv) Tender Security Form (Institutions)

(v) Tender Security Form (Letter of Credit)

(vi) Manufacturers Authorisation Form

(vii) Manufacturer's Warranty Form

(viii) Declaration Form

(ix) Letter of notification of award

(x) Letter of notification of regret

(xi) Contract Agreement Form

(xii) Performance Security Form (Bank Guarantee)

(xiii) Performance Security Form (LC)

(xiv) Letter of Acceptance

(xv) Qualification Information Forms

(xvi) Details of Proposed Sub-Contractors

(xvii) Site Visit Form

(xviii) Manufacturers Authorisation Form

(xix) Supplier Evaluation Form

(i) - TENDER FORM

Date:……
Tender No……

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
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 to supply, deliver, install and commission *(the latter two where applicable)* …… *(insert goods description*) in accordance and conformity with the said tender document for the sum of …….(*total tender amount inclusive of all taxes in words and figures)* 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 deliver, install and commission the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the performance security of a licensed commercial 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 The Kenya Power & Lighting Company Limited.

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 Capacity of duly authorised person signing the Tender

_____
Stamp or Seal of Tenderer

<u>*NOTES:</u>

1. KPLC requires a validity period of at least ninety (90) days.
2. This form must be duly completed, signed, stamped and/or sealed.

(ii) - 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.

Part 1 – General

Business Name……

Location of business premises……

Plot No. ……Street/ Road ……..

Postal Address …….. Postal Code …….

Tel No……..

Facsimile..……..

Mobile and/ or CDMA No…….

E-mail:……

Nature of your business ……..
Registration Certificate No.……

Maximum value of business which you can handle at any time KSh…….

Name of your Bankers ……..Branch… ……

*Names of Tenderer's contact person(s) …….

Designation/ capacity of the Tenderer's contact person(s) ……

Address, Tel, Fax and E-mail of the Tenderer's contact person(s) …….
……...
……

Part 2 (a) Sole Proprietor

Your name in full …….

Nationality ……Country of origin ……..

*Citizenship details…….

Part 2 (b) Partnership

Give details of partners as follows: -

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

……..……..

Capacity of the duly authorized person……

Signature of the duly authorized person……..

Part 2 (d) List of Associated Companies Participating in this Tender

Give details as follows: -

Name of Company	Country of Registration	Directors	Shares (%)
1……..			
2…….			
3…..…….……..			
4…….			
5……..…….			

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

Capacity 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.* **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.*

(iii) - TENDER SECURITY FORM – (BANK GUARANTEE)

(To Be Submitted On Bank's Letterhead) **Date:**

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS …… (*name of the Tenderer*) (*hereinafter called "the Tenderer")* has submitted its Tender dated …… for the supply, installation and commissioning of…… *(please insert KPLC tender no.* a*nd name*) *(hereinafter called "the Tender");*

KNOW ALL PEOPLE by these presents that **WE**…….of …….having our registered office at……. *(hereinafter called "the Bank")*, are bound unto The Kenya Power and Lighting Company Limited (*hereinafter called "KPLC" which expression shall where the context so admits include its successors-in-title and assigns*) in the sum of ……. for which payment well and truly to be made to the said KPLC, the Bank binds itself, its successors, and assignees by these presents.

We undertake to pay you, upon your first written demand declaring the Tenderer to be in breach of the tender requirements and without cavil or argument, the entire sum of this guarantee being …….. (*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 tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the date below.

This guarantee is valid until the …..…day of……20……

EITHER

SEALED with the	)	
COMMON SEAL	)	
of the said **BANK**	)	_____
this ……day	)	BANK SEAL
of ……20….	)	
	)	
in the presence of :-	)	
	)	
_____	)	
	)	
and in the presence of:-	)	
	)	
_____	)	

OR

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

_____

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

_____

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

<u>NOTES TO TENDERERS AND BANKS</u>

1. *Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Tender Security to be furnished by the Tenderer. If any are made, the Tender Security shall not be accepted and shall be rejected by KPLC. For the avoidance of doubt, such rejection will be treated as*

non-submission of the Tender Security where such Security is required in the tender.

2. *It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*

3. ***The issuing bank should address its response or communication regarding the bond to KPLC at the following e-mail address – "guarantees@ kplc.co.ke"***

4. *The Tender validity period is ninety (90) days as set out in the Invitation to Tender (at Section I of the Tender document) or as otherwise may be extended by KPLC. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.*

(iv)

TENDER SECURITY FORM (SACCO SOCIETY, DEPOSIT TAKING MICRO FINANCE INSTITUTIONS, WOMEN ENTERPRISE FUND & YOUTH ENTERPRISE FUND)

(To Be Submitted On Institutions Letterhead) **Date:**

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS……(hereinafter called "the Contractor") has undertaken, in pursuance of your Tender Number……..(*reference number of the Tender)* and its Tender dated ….…..…..…*(insert Contractor's date of Tender taken from the Tender Form)* to supply ……(*description of the Works*) (hereinafter called "the Contract);

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

AND WHEREAS we have agreed to give the Contractor a Guarantee;

THEREFORE WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of……. (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ……... (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the ……day of…….…..…20….

EITHER

SEALED with the	)	
COMMON SEAL	)	
of the said **INSTITUTION**	)	
	)	
this ……day	)	_____
	)	INSTITUTION SEAL
of ……20….	)	
in the presence of :-	)	
	)	
_____	)	
	)	
and in the presence of:-	)	
	)	
_____	)	

OR

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

_____

Name(s) and Capacity(ies) of duly authorised representative(s)/ attorney(s) of the **Institution**.

_____

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

NOTES TO SUPPLIERS AND INSTITUTIONS

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

2. *It is the responsibility of the Tenderer to sensitize its issuing institution on the need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the institution within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*

3. ***The issuing institution should address its response or communication regarding the Tender Security to KPLC at the following e-mail address – "guarantees@ kplc.co.ke"***

4. *The Tender validity period is ninety (90) days as set out in the Invitation to Tender (at Section I of the Tender document) or as otherwise may be extended by KPLC. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.*

(v)
TENDER SECURITY – (LETTERS OF CREDIT)

The Mandatory Conditions to be included in the Letters are in two parts, A and B.

Part A

Form of Documentary credit - "Irrevocable Standby"

Applicable rules - "Must be UCP Latest Version" i.e. Uniform Customs and Practices (UCP) 600 (2007 REVISION) ICC Publication No. 600.

Place of expiry - At the counters of the advising bank.

The SBLC should be available – "By Payment"

Drafts should be payable at - "SIGHT"

Documents required -

1. Beneficiary's signed and dated statement demanding for payment under the letter of credit no…….. (*Insert LC No*.) as…….(*Name of applicant*) (hereinafter called the "Tenderer") indicating that the "Tenderer" has defaulted in the obligations of the Tenderer as stated by the Beneficiary.

2. The Original Letter of Credit and all amendments, if any.

Additional Conditions -

1. All charges levied by any bank that is party to this documentary credit are for the account of the applicant.

2. There should be no conditions requiring compliance with the specific regulations or a particular country's Law and regulations.

Charges - All bank charges are for the account of the applicant.

*****Confirmation instructions – (See notes below)

Part B

The proceeds of these Letters are payable to KPLC -

a) if the Tenderer withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which the Tenders must remain valid.

b) if the Tenderer rejects a correction of an arithmetic error

c) if the Tenderer fails to enter into a written contract in accordance with the Tender Document

d) if the successful Tenderer fails to furnish the performance security in accordance with the Tender Document.

e) if the Tenderer fails to extend the validity of the tender security where KPLC has extended the tender validity period in accordance with the Tender Document.

NOTES TO TENDERERS AND BANKS

1. *Please note that should the Tender Security (LC) omit any of the above conditions the LC shall not be accepted and shall be rejected by KPLC. For the avoidance of doubt, such rejection will be treated as non-submission of the LC where such LC is required in the Tender.*

2. *It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to any queries from KPLC. The period for response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*

3. ***The issuing bank should address its response or communication regarding the bond to KPLC at the following e-mail address – "guarantees@ kplc.co.ke"***

4. *The Tender validity period is ninety (90) days as set out in the Invitation to Tender (at Section I of the Tender document) or as otherwise may be extended by KPLC. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.*

5. *All Guarantees issued by foreign banks must be confirmed by a local bank in Kenya.*

(vi) - MANUFACTURER'S AUTHORIZATION FORM

(To Be Submitted On Manufacturer's Letterhead)

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza, Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS WE ……(*name of the manufacturer*) who are established and reputable manufacturers of ……
(*name and description of the goods*) having factories at ….…..…..*(full address and physical location of factory(ies) where goods to be supplied are manufactured)* do hereby confirm that ……
(*name and address of Supplier*) is authorized by us to transact in the goods required against your Tender …… (*insert reference number and name of the Tender*) in respect of the above goods manufactured by us.

DATED THIS…….. DAY OF…….20……

_____
Signature of duly authorised person for and on behalf of the Manufacturer.

_____
Name and Capacity of duly authorised person signing on behalf of the Manufacturer

NOTES TO TENDERERS AND MANUFACTURERS

Only a competent person in the service of the Manufacturer should sign this letter of authority.

(vii) - MANUFACTURER'S WARRANTY FORM

To Be Submitted On Manufacturer's Letterhead)

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza, Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

RE: MANUFACTURER'S WARRANTY FOR GOODS REQUIRED UNDER TENDER NO …….. TO BE SUPPLIED BY …….(*indicate your name or the supplier you have authorized)*

WE HEREBY WARRANT THAT:

a) The goods to be supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender.
b) The goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the goods under the conditions obtaining in Kenya.

The Warranty will remain valid for one (1) year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract.

DATED THIS…….. DAY OF…….20……

_____

Signature of duly authorised person for and on behalf of the Manufacturer.

_____

Name and Capacity of duly authorised person signing on behalf of the Manufacturer

NOTES TO TENDERERS AND MANUFACTURERS

1. *Only a competent person in the service of the Manufacturer should sign this letter of authority.*
2. *Provide full contact details including physical address, e-mail, telephone numbers and the website on the Warranty.*

(viii) - DECLARATION FORM

Date _____

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
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 Bidders.
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 are not associated with any other Tenderer participating in this tender.
f) 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 Capacity of duly authorised person signing the Tender

_____

Stamp or Seal of Tenderer

(ix) - LETTER OF NOTIFICATION OF AWARD

To:

(Name and full address of the Successful Tenderer)……

Dear Sirs/ Madams,

RE: NOTIFICATION OF AWARD OF TENDER NO. ……

We refer to your Tender dated…… and are pleased to inform you that following evaluation, your Tender has been accepted as follows: -

……
……

This notification does not constitute a contract. The formal Contract Agreement, which is enclosed herewith shall be entered into upon expiry of Seven (7) days from the date hereof but not later than thirty (30) days after expiry of tender validity pursuant to the provisions of the Public Procurement and Disposal Act, 2005 *(or as may be amended from time to time, or replaced).*

Kindly sign, and seal the Contract Agreement. Further, initial and stamp on all pages of the documents forming the Contract that are forwarded to you with this letter. Thereafter return the signed and sealed Contract together with the documents to us within seven (7) days of the date hereof for our further action.

We take this opportunity to remind you to again note and strictly comply with the provisions as regards the Tender Security, Signing of Contract and Performance Security as stated in the Instructions to Tenderers.

We look forward to a cordial and mutually beneficial business relationship.

Yours faithfully,

FOR: THE KENYA POWER & LIGHTING COMPANY LIMITED

CHIEF MANAGER, SUPPLY CHAIN & LOGISTICS

Enclosures

(x) - 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. ……**

We refer to your Tender dated…… and regret to inform 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 *Legal Department (Guarantees Section), on the 2nd Floor, Stima Plaza, Kolobot Road, Parklands, Nairobi* only after expiry of eighteen (18) days from the date hereof on Mondays and Wednesdays ONLY between 9.00 a.m to 12.30 pm and 2.00p.m to 4.00p.m.

It is expected that by that time KPLC and the successful bidder will have entered into a contract pursuant to the Public Procurement and Disposal Act, 2005 *(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 & LIGHTING COMPANY LIMITED

CHIEF MANAGER, SUPPLY CHAIN & LOGISTICS.

(xi) - CONTRACT AGREEMENT FORM

THIS AGREEMENT made this**……**day of**…….20…. BETWEEN THE KENYA POWER & LIGHTING COMPANY LIMITED**, a limited liability company duly incorporated under the Companies Act, Chapter 486 of the Laws of Kenya, with its registered office situated at Stima Plaza, Kolobot Road, Parklands, Nairobi in the Republic of Kenya and of Post Office Box Number 30099-00100, Nairobi in the Republic aforesaid *(hereinafter referred to as "KPLC")* of the one part,

AND

…….. (*Contractor'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**…….*(full address physical and postal of Contractor)*** in the Republic aforesaid, *(hereinafter referred to as the "Contractor"* of the other part;

WHEREAS KPLC invited tenders for certain works, that is to say for **…… (*KPLC insert description of Works*)** under Tender Number**…….. (*KPLC insert tender number*)**

AND WHEREAS KPLC has accepted the Tender by the Contractor for the services in the sum of **……**(***KPLC specify the total amount in words which should include*** insurances, duties, levies, Value Added Tax (V.A.T), Withholding Tax and other taxes payable ***where applicable*** (*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) the Official Purchase Order shall also mean the Official Order or Local Purchase Order.

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

e) 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 *"Contractor"* the covenants, agreements obligations expressed to be made or performed by the Contractor shall be deemed to be made or performed by such persons jointly and severally.

f) where there are two or more persons included in the expression the *"Contractor"* any act default or omission by the Contractor 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 KPLC to the Contractor as hereinbefore mentioned, the Contractor hereby covenants with KPLC to perform and Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract provide the services and remedy any defects thereon in conformity in all respects with the provisions of the Contract.

4. KPLC hereby covenants to pay the Contractor in consideration of the proper performance and provision of the services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

a) this Contract Agreement

b) Letter of Acceptance dated ……..

c) General Conditions of Contract

d) Special Conditions of Contract

e) Official Purchase Order where applicable

f) Technical Specifications
g) Drawings
h) Bill of Quantities/Schedule of Requirements
i) Implementation Plan (work methods and schedule)
j) KPLC's Notification of Award dated……
k) Tender Form signed by the Contractor
l) Declaration Form signed by the Contractor/ successful Tenderer
m) Warranty

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 KPLC and the Contractor.
   b) Issuance of the Performance Bond by the Contractor and confirmation of its authenticity by KPLC.
   c) Issuance of the Official Order by KPLC to the Contractor.
   d) Where applicable, Opening of the Letter of Credit by KPLC.

8. The period of contract validity shall begin from the Commencement date and end at the expiry of the Defects Liability Period.
   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 Contractor 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 KPLC 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 contractors and five (5) days for Foreign contractors.

14. For the purposes of Notices, the address of KPLC shall be Company Secretary, The Kenya Power & Lighting Company Limited, 7th Floor, Stima Plaza, Kolobot Road, Post Office Box Number 30099–00100, Nairobi, Kenya, Facsimile + 254-20-3750240/ 3514485. The address for the Contractor shall be the Contractor'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 **THE KENYA POWER & LIGHTING COMPANY LIMITED**

_____
COMPANY SECRETARY

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

_____ _____
DIRECTOR *Affix Contractor's Seal here*

_____

DIRECTOR'S FULL NAMES

and in the presence of:-

_____

DIRECTOR/ COMPANY SECRETARY

_____

DIRECTOR/ COMPANY SECRETARY'S FULL NAMES

DRAWN BY: -

Beatrice Meso
Advocate,
C/o The Kenya Power & Lighting Company Limited,
7th Floor, Stima Plaza,
Kolobot Road, Parklands,
Post Office Box Number 30099–00100,
NAIROBI, KENYA,

Telephones: + 254-20-3201000/ 731
Facsimile: + 254-20-3514485/ 3750240

(xii)

PERFORMANCE SECURITY FORM (BANK GUARANTEE)

(To Be Submitted On Bank's Letterhead) **Date:**

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS……(hereinafter called "the Contractor") has undertaken, in pursuance of your Tender Number……..(*reference number of the Tender)* and its Tender dated ……*(insert Contractor's date of Tender taken from the Tender Form)* to supply ……(*description of the works*) (hereinafter called "the Contract);

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

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

THEREFORE WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of……. (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ……... (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the ……day of…….…..…20….

EITHER

SEALED with the)

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

this ……day)
)
of ……20….)
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 Capacity(ies) of duly authorised representative(s)/ attorney(s) of the Bank

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

NOTES TO CONTRACTORS 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 KPLC. 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. *KPLC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Contractor to sensitize its issuing bank on the*

need to respond directly and expeditiously to queries from KPLC. The period for response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Contractor'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 KPLC at the following e-mail address – "guarantees@ kplc.co.ke"

(xiii) -PERFORMANCE SECURITY (LC)

Mandatory Conditions that should appear on the Performance Security (LC).

Form of Documentary credit - "Irrevocable Standby"

Applicable rules - "Must be UCP Latest Version" i.e. UCP 600 (2007 REVISION) ICC Publication No. 600.

Place of expiry - At the counters of the advising bank.

The SBLC should be available – "By Payment"

Drafts should be payable at - "SIGHT"

Documents required -

1. Beneficiary's signed and dated statement demanding for payment under the letter of credit no…….. (*Insert LC No.*) as…….(*Name of Applicant*) (hereinafter called the "Contractor") indicating that the "Contractor" has defaulted in the performance and adherence to and performance of the contract between the Beneficiary and the Contractor.

2. The Original Letter of Credit and all amendments, if any.

Additional Conditions -

1. All charges levied by any bank that is party to this documentary credit are for the account of the Applicant.

2. (Include) that there should be no conditions requiring compliance with the specific regulations or a particular country's laws and regulations.

Charges - All bank charges are for the account of the Applicant.

Confirmation instructions – (See notes below)

NOTES TO CONTRACTORS AND BANKS

1. Please note that should the Performance Security (LC) omit any of the above conditions the LC shall not be accepted and shall be rejected by KPLC. For the avoidance of doubt, such rejection will be treated as non-submission of the LC where such LC is required in the tender and Contract.

2. *KPLC may seek authentication of the Performance Security (LC) from the issuing bank. It is the responsibility of the Contractor to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KPLC. The period for*

   response shall not exceed three (3) days from the date of KPLC's query. Should there be no conclusive response by the Bank within this period, such Contractor's Performance Security (LC) may be deemed as invalid and the Contract nullified.

3. ***The issuing bank should address its response or communication regarding the bond to KPLC at the following e-mail address – "guarantees@ kplc.co.ke"***

4. *All Guarantees issued by foreign banks must be confirmed by a local bank in Kenya.*

(xiv) - LETTER OF ACCEPTANCE

[letter-head paper of the Employer]

_____[*date]*

To: _____
[name of the Contractor]

_____
[address of the Contractor]

Dear Sir,

This is to notify you that your Tender dated _____
for the execution of _____
[name of the Contract and identification number, as given in the Tender documents] for the Contract Price of (Indicate Currency) _____ *[amount in figures]* (Indicate Currency) _____*(amount in words)*] in accordance with the Instructions to Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in accordance with the Contract documents.

Authorized Signature ……

Name and Title of Signatory ……

Attachment : Agreement

(xv) - QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

1.1 Constitution or legal status of tenderer (attach copy or Incorporation Certificate)

Place of registration: _____

Principal place of business _____

Power of attorney of signatory of tender _____

1.2 Total annual volume of construction work performed in the last three years

Year	Volume	
	Currency	Value
Year 1		
Year 2		
Year 3		

1.3 Work performed as Main Contractor on works of a similar nature and volume over the last three years. Also list details of work under way or committed, including expected completion date.

Project Name	Name of Client and contact person (Address & Telephone No.)	Type of Work performed and year of completion	Value of contract

1.4 Major items of Contractor's Tools & Equipment proposed for carrying out the Works. List all information requested below. (Attach evidence of ownership or lease)

Item of Tools & Equipment	Description, Make and age (years)	Condition(new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
_____ _____ _____(etc.)	_____ _____ ____	_____ _____ ___	_____ _____ _____

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract as required by Subsection 3.20 of the Instructions to Tenderer, Attach biographical data.

Bidders should provide the names of suitably qualified personnel.

1.	**Title of position***
	Name
2.	**Title of position***
	Name
3.	**Title of position***
	Name
4.	**Title of position***
	Name

Resume f**or each** Proposed Personnel
The data on their experience should be supplied using the Form below for each candidate.

Name of Bidder

Position		
Personnel information	**Name**	**Date of birth**
	Professional qualifications	
Present employment	**Name of employer**	
	Address of employer	
	Telephone	**Contact (manager / personnel officer)**
	Fax	**E-mail**
	Job title	**Years with present employer**

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

From	**To**	**Company / Project / Position / Relevant technical and management experience**

1.6 Proposed Subcontractors for works

As per the requirements of Clause 3.20 of Conditions of Contract, following is a list of subcontractors and the portions of the Work to be subcontracted:

The following Subcontractors and/or manufacturers are proposed for carrying out the item of the facilities indicated. Bidders are free to propose more than one for each item

Sections of the Works	Value of Subcontract	Subcontractor (name and address)	Experience in similar work
_____	_____		_____
_____	_____		_____
_____	_____	_____	_____
(etc.)			

1.7 Financial reports for the last three years: balance sheets, profit and loss statements, auditor's reports, etc. List below and attach copies of audited financial statements.

_____

_____

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.

_____

_____

_____

1.9 Name, address and telephone, telex and facsimile numbers of banks and/or institution that may provide reference if contacted by the Employer.

_____

_____

_____

1.10 Statement of compliance with the requirements the Instructions to Tenderers.

_____
_____
_____

1.11 Proposed program (work method and schedule) in compliance with requirement in the Instructions to Tenderers. Descriptions, drawings and charts, as necessary, to comply with the requirements of the tendering documents.

2 Joint Ventures

2.1 The information listed in 1.1 – 1.10 above shall be provided for each partner of the joint venture.

2.2 The information required in 1.11 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;

b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and

c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge

(xvi) - SITE VISIT FORM

CONFIRMATION OF PRE-BID SITE VISIT
Name of Tenderer……..
Date of Visit……

Name, position and signature of the Tenderer's staff visiting the site.
Name:……..
Position……..
Qualification
Signature…… Tenderer's Official Stamp…….

Site Visit conducted by Employer's Authorised Officer's
Name ……
Signature……

(xii) - MANUFACTURER'S AUTHORIZATION FORM

(To Be Submitted On Manufacturer's Letterhead)

To:
The Kenya Power & Lighting Company Limited,
Stima Plaza, Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

WHEREAS WE ……(*name of the manufacturer*) who are established and reputable manufacturers of ……
(*name and description of the goods*) having factories at ….…..…..*(full address and physical location of factory(ies) where goods to be supplied are manufactured)* do hereby confirm that ……
(*name and address of Supplier*) is authorized by us to transact in the goods required against your Tender …… (*insert reference number and name of the Tender*) in respect of the above goods manufactured by us.

WE HEREBY extend our full guarantee and warranty as per the Conditions of Contract for the goods offered for supply by the above firm against the Invitation to Tender.

DATED THIS…….. DAY OF…….20……

_____
Signature of duly authorised person for and on behalf of the Manufacturer.

_____
Name and Capacity of duly authorised person signing on behalf of the Manufacturer

NOTES TO TENDERERS AND MANUFACTURERS

Only a competent person in the service of the Manufacturer should sign this letter of authority.

(xviii) - SUPPLIER EVALUATION FORM

(This form is for information only and not to be filled in by any bidder. It is for official use by KPLC to evaluate performance of Suppliers during the contract period)

Name of Firm……...Date……
Category of Product/Service (e.g. Marine Spares ……
Period of evaluation…….....

Evaluation		**Re-Evaluation**	
Tick as appropriate			

Parameters for supplier evaluation	**Maximum Scores**	**Remarks**	**Action Taken**
A. CUSTOMER SATISFACTION			
A1. Adherence to requirements(quality)			
• Adherence to Specifications			
• Number of rejections			
• Number of complaints from Users			
B. CUSTOMER CONNECTIVITY			
B1. Adherence to delivery period			
• Number of delays			
• Non delivery/More than 3 delays			
C.COMMUNICATION/RESPONSIVENESS			
Total Score			
Score last period			

PERFORMANCE LEVEL DEFINATION;

≥75% - KP1 GREEN
50% - KP2 AMBER
25% - KP3 YELLOW
≥25% - KP4 RED

RATING	**RATING PER YEAR**	**MAX. SCORE**	**ACTUAL SCORE**
A1.Adherence to requirements			
• Adherence to Specifications	Compliant	5 marks	
	Not compliant	0 marks	
• Number of rejections	None	5 marks	
	1-2 Rejections	3 marks	
	3 or more	0	

• Number of complaints from Users	None	5 marks	
	1-2 User complaints	3 Marks	
	3 or more	0 marks	
B1. Adherence to delivery period			
• No delay	None	5 marks	
• Number of delays	1-2 Delays	3 Marks	
• Non delivery/More than 3 delays	Failure	0 marks	
C. Communication			
• Easily accessible		5 Marks	
• Partially		3 Marks	
• Not accessible		0 Marks	
D. Responsiveness			
• Replacement of faulty goods	within 7 days	5 Marks	
	within 14 days	3 Marks	
	beyond 14 days	0 Marks	
Total score		**30 marks**	

Score in Percentage % ……

WORKINGS

Actual score x 100% 30	……x 100% = …… 30

RATING: 75% - V Good, 50% - Good, 25% - Fair, Below 25% - Poor

OBSERVATIONS:

RECOMMENDATION

		Status	**Tick as appropriate**
1	Grant supplier preferred status	**KP1**	
2	Work with supplier or develop and improve supplier	**KP2 & KP3**	
3	Abandon / switch suppliers	**KP4**	

Name:……Sign:……..Date:……...

Name:……Sign:……..Date:……...

Name:……Sign:……..Date:……...