



**MICRO AND SMALL ENTERPRISES
AUTHORITY**

**TENDER
FOR
FRAMEWORK CONTRACT FOR
PROVISION OF DIGITAL ENTREPRENEURSHIP
APTITUDE TEST (EAT)
PROJECT: NATIONAL YOUTH OPPORTUNITY
TOWARDS ADVANCEMENT (NYOTA)
CREDIT NO: 7355**

**TENDER NO: MSEA/NYOTA/NCB/ 10/2024-
2025
JANUARY, 2025**

**MICRO AND SMALL ENTERPRISES AUTHORITY, UTALII
HOUSE, UTALII LANE, 10TH FLOOR
P.O BOX 48823-00100, NAIROBI
Email: scmnyota@msea.go.ke**

Issuing date: 14TH JANUARY,2025

Closing Date: 28TH JANUARY, 2025 AT 11:00 A.M.

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INVITATION TO TENDER

INVITATION TO TENDER

1. NOTICE FOR TENDER

Micro And Small Enterprises Authority (MSEA) invites interested, competent and eligible bidders in an open national competitive method for **Tender for Framework Contract for Provision of Digital Entrepreneurship Aptitude Test. TENDER NO: MSEA/NYOTA/NCB/10/2024-2025**

Interested applicants are required to obtain tender document with details of the foregoing tender from MSEA website (www.msea.go.ke).

Completed Tender document in plain sealed envelope, clearly indicating the tender number and name should be addressed to the:

**CHIEF EXECUTIVE OFFICER
MICRO AND SMALL ENTERPRISES AUTHORITY
P.O BOX 48823-00100,
NAIROBI, KENYA**

and deposited in the **TENDER BOX** at the Mezzanine one, Utalii House, Utalii lane, Nairobi not later than **11:00 a.m.** on the closing date of **28TH January, 2025 At 11:00 A.M.** The tenders will be opened on the said day and venue at **11:00 a.m.** in the presence of tenderers/representatives who may wish to attend.

Any canvassing in whatever way will render the prospective bidder(s)/applicant(s) ineligible for participation.

Late bids shall not be accepted.

**HENRY RITHAA
CHIEF EXECUTIVE OFFICER**

2. Micro and Small Enterprises Authority (MSEA) referred to as Public Entity invites sealed tenders for **Tender for Framework Contract for Provision of Entrepreneurship Aptitude Test (EAT) (TENDER NO: MSEA/NYOTA/NCB/10/2024-2025)**.
3. Tendering will be conducted under Open Competitive Method National using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
4. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours 0900 to 1600hrs at the Project **Supply Chain Management Office at 10th Floor Utalii House, Utalii Lane**.
5. Tender documents may be viewed and/or downloaded from the website: www.msea.go.ke
6. The Tenderer shall chronologically serialize all pages of the tender documents submitted
7. Completed tenders must be delivered to the address below on or before **28TH JANUARY, 2025 At 11:00 A.M.**
8. Electronic Tenders **WILL NOT BE PERMITTED**.
9. Tenders will be opened immediately after the deadline date and time specified above . Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below:

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

**MICRO AND SMALL ENTERPRISES AUTHORITY,
UTALII HOUSE, UTALII LANE, 10th FLOOR
P.O BOX 53547-00200, NAIROBI, KENYA**

**ATTN: PROJECT SUPPLY CHAIN MANAGEMENT,
MICRO AND SMALL ENTERPRISES AUTHORITY,
UTALII HOUSE, UTALII LANE, 10TH FLOOR P.O BOX
48823-00100 NAIROBI**

CONTACT: +254700666000/+254770666000

EMAIL ADDRESS: scmnyota@msea.go.ke

B. Address for Submission of Tenders.

**THE CHIEF EXECUTIVE OFFICER
MICRO AND SMALL ENTERPRISES AUTHORITY,
UTALII HOUSE, UTALII LANE, 10TH FLOOR P.O BOX 48823-00100 NAIROBI**

C. Address for Opening of Tenders.

**MICRO AND SMALL ENTERPRISES AUTHORITY,
UTALII HOUSE, UTALII LANE, 10TH FLOOR P.O BOX 48823-00100 NAIROBI**

PART 1-TENDERING PROCEDURES

PART 1 - TENDERING PROCEDURES

SECTION I: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

- 1.1 The Procuring Entity as defined in the **TDS** invites tenders for supply of goods and, if applicable, any Related Services incidental thereto, as specified in **Section V**, Supply Requirements. The name, identification, and number of lots (contracts) of this Tender Document are specified in the **TDS**.
- 1.2 Throughout this tendering document:
 - a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the **TDS**, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;
 - b) if the context so requires, “singular” means “plural” and vice versa;
 - c) “Day” means calendar day, unless otherwise specified as “Business Day”. A Business Day is any day that is an official working day of the Procuring Entity. It excludes official public holidays.

2. Fraud and Corruption

- 2.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.
- 2.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the “Certificate of Independent Tender Determination” annexed to the Form of Tender.
- 2.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the Procuring Entity shall indicate in the

Data Sheet and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

3 Eligible Tenderers

- 3.1 A Tenderer may be a firm that is a private entity, an individual, a state-owned enterprise or institution subject to ITT3.7, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives (*spouses, children, brothers, sisters and uncles and aunts*) are not eligible to participate in the tender.

In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS**.

- 3.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

- 3.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have conflict of interest for the purpose of this Tendering process, if the Tenderer:

- a) directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
- b) receives or has received any direct or indirect subsidy from another Tenderer; or
- c) has the same - representative or ownership as another Tenderer; or
- d) has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
- e) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods that are the subject of the Tender; or
- f) or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity for the Contract implementation; or
- g) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the **TDS** ITT 1.1 that it provided or were provided by any affiliate that directly or indirectly controls, is

controlled by, or is under common control with that firm; or has a close business or family relationship with a professional staff of the Procuring Entity (or of the project implementing agency, who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the Tendering process and execution of the Contract.

- 34 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved in any of these practices shall be automatically disqualified.
- 35 A firm that is a Tenderer (either individually or as a JV member) shall not submit more than one Tender, except for permitted alternative Tenders. This includes participation as a subcontractor. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a Tenderer or a JV member, may participate as a subcontractor in more than one Tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.
- 36 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT3.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub consultants for any part of the Contract including related Services.
- 37 A Tenderer that has been debarred by the PPRA from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the PPRA's website www.ppra.go.ke
- 38 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis. Public employees and their close relatives are not eligible to participate in the tender.
- 39 Tenderers may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya

prohibits any import of goods or contracting for supply of goods or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

- 3.10 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 3.11 Where the law requires tenderers to be registered with certain authorities in Kenya, such registration requirements shall be defined in the **TDS**
- 3.12 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke.
- 3.13 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4 Eligible Goods and Related Services

- 4.1 All the Goods and Related Services to be supplied under the Contract shall have their origin in any country that is eligible in accordance with ITT 3.9.
- 4.2 For purposes of this ITT, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” include services such as insurance, installation, training, and initial maintenance.
- 4.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 4.4 A procuring entity shall ensure that the items listed below shall be sourced from Kenya and there shall be no substitutions from foreign sources. The affected items are:

- a) motor vehicles, plant and equipment which are assembled in Kenya;
 - b) furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather, agro-processed products, sanitary products, and other goods made in Kenya; or
 - c) goods manufactured, mined, extracted or grown in Kenya.
- 45 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5. Sections of Tendering Document

- 5.1 The tendering document consist of Parts 1, 2, and 3, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT8.

PART 1: Tendering Procedures

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

PART 2: Supply Requirements

- v) Section V - Schedule of Requirements

PART 3: Contract

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

- 52 The notice of Invitation to Tender or the notice to the prequalified Tenderers issued by the Procuring Entity is not part of the tendering document.
- 53 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the minutes of the pre-tender meeting (if any), or addenda to the tendering document in accordance with ITT7.
- 54 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

6. Clarification of Tendering Document

- 6.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting if provided for

in accordance with ITT 6.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender documents in accordance with ITT 5.3, including a description of the inquiry but without identifying its source. Ifso specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT 7.

- 62 The Procuring Entity shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Tenderer's designated representative is invited to attend a pre-Tender meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 63 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.
- 64 Minutes of the pre-Tender meeting, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.
- 65 The Procuring Entity shall also promptly publish anonymized (*no names*) Minutes of the pre-Tender meeting at the web page identified **in the TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 7 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

7. Amendment of Tendering Document

- 7.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the tendering document by issuing addenda.
- 7.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tender document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's web page in accordance with ITT 7.1.
- 7.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity may, at its

discretion, extend the deadline for the submission of Tenders, pursuant to ITT 21.2.

C. Preparation of Tenders

8 Cost of Tendering

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

9 Language of Tender

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

10 Documents Comprising the Tender

10.1 The Tender shall comprise the following:

- a) Form of Tender
- b) Price Schedules:
- c) Alternative Tender: if permissible,
- d) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer
- e) Qualifications: documentary evidence establishing the Tenderer qualifications to perform the Contract if its Tender is accepted;
- f) Tenderer Eligibility: documentary evidence establishing the Tenderer eligibility to tender and
- g) any other document required in the **TDS**.

102 In addition to the requirements under ITT 3.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement.

103 The Tenderer shall furnish in the Form of Tender information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Tender.

11. Form of Tender and Price Schedules

11.1 The Form of Tender and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize pages of all tender documents submitted.

12. Alternative Tenders

12.1 Unless otherwise specified in the **TDS**, alternative Tenders shall not be considered.

13. Tender Prices and discounts

13.1 The prices quoted by the Tenderer in the Form of Tender and in the Price Schedules shall conform to the requirements specified below.

13.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.

13.3 The price to be quoted in the Form of Tender in accordance with ITT 13.6 shall be the total price of the Tender, including any discounts offered.

13.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the form of tender. Conditional discounts will be rejected.

13.5 Prices quoted by the Tenderer shall be fixed during the performance of the Contract and not subject to variation on any account, unless otherwise specified **in the TDS**. A Tender submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITT 28. However, if in accordance with **the TDS**, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract, a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

13.6 If specified in ITT 1.1, Tenders are being invited for individual (contracts) or for any combination (packages). Unless otherwise specified **in the TDS**, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Tenderers

wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 13.5 provided the Tenders are opened at the same time.

- 137 The terms EXW, CIP, CIF, DDP and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce.
- 138 Prices shall be quoted as specified in each Price Schedule included in Section IV, Tendering Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Procuring Entity. This shall not in any way limit the Procuring Entity's right to contract on any of the terms offered. In quoting prices, the Tenderer shall be free to use transportation through carriers registered in any eligible country. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with ITT 3.6, Eligible Tenders. Prices shall be entered in the following manner:
- a) For Goods manufactured in Kenya:
 - i) the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the- shelf, as applicable) final destination point indicated in the **TDS**, including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;
 - ii) any sales tax and other taxes which will be payable in Kenya on the Goods if the Contract is awarded to the Tenderer; and
 - iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination specified **in the TDS**.
 - b) For Goods manufactured outside Kenya, to be imported:
 - i) the price of the Goods, quoted CIP named place of destination, in Kenya, as specified **in the TDS**;
 - ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination specified **in the TDS**;
 - c) For Goods manufactured outside Kenya, already imported:
 - i) the price of the Goods, including the original import value of the Goods; plus, any mark-up (or rebate); plus, any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported;
 - ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods

already imported;

- iii) any sales and other taxes levied in Kenya which will be payable on the Goods if the Contract is awarded to the Tenderer; and
 - iv) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified **in the TDS**.
- d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements, the price of each item comprising the Related Services (inclusive of any applicable taxes).

14 Currencies of Tender and Payment

- 141 The currency (ies) of the Tender, the currency (ies) of award and the currency (ies) of contract payments shall be the same.
- 142 The Tenderer shall quote in Kenya shillings. If allowed in the **TDS**, the Tenderer may express the Tender price in any currency, provided it shall use no more than two foreign currencies in addition to the Kenya Shilling.
- 143 The rates of exchange to be used by the Tenderer shall be based on the exchange rates provided by the Central Bank of Kenya on the date 30 days prior to the actual date of tender opening.

15 Documents Establishing the Eligibility and Conformity of the Goods and Related Services

- 15.1 To establish the eligibility of the Goods and Related Services in accordance with ITT 15, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.
- 152 To establish the conformity of the Goods and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.
- 153 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 154 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the TDS** following commencement of the use of the goods by the Procuring Entity.
- 155 Standards for workmanship, process, material, and equipment, as well as

references to brand names or catalogue numbers specified by the Procuring Entity in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

16. Documents Establishing the Eligibility and Qualifications of the Tenderer

16.1 To establish Tenderer eligibility, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.

16.2 The documentary evidence of the Tenderer qualifications to perform the Contract if its Tender is accepted shall establish to the Procuring Entity's satisfaction:

- a) that, if required **in the TDS**, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tendering Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Kenya;
- b) that, if required **in the TDS**, in case of a Tenderer not doing business within the Kenya, the Tenderer is or will be (if awarded the Contract) represented by an Agent in the country equipped and able to carry out the Service provider's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
- c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

17. Period of Validity of Tenders

17.1 Tenders shall remain valid for the Tender Validity period specified **in the TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 17.1). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

17.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 18, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT

17.3 If the award is delayed by a period exceeding the number of days to be

specified in the **TDS** days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:

- a) in the case of **fixed price** contracts, the Contract price shall be the tender price adjusted by the factor specified **in the TDS**;
- b) in the case of **adjustable price** contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

18. Tender Security

181 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security, as specified **in the TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified **in the TDS**.

182 A Tender Securing Declaration shall use the form included in Section IV, Tendering Forms.

183 If a Tender Security is specified pursuant to ITT 18.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer option:

- i) cash;
- ii) a bank guarantee;
- iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
- iv) a letter of credit; or
- v) guarantee by a deposit taking micro-finance institution, Sacco society, the Youth Enterprise Development Fund or the Women Enterprise Fund.

184 If an unconditional guarantee is issued by a non-Bank financial institution located outside Kenya, the issuing non-Bank financial institution shall have a correspondent financial institution located in Kenya to make it enforceable unless the Procuring Entity has agreed in writing, prior to Tender submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tendering Forms, or in another substantially similar format approved by the Procuring Entity prior to Tender submission. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 17.3.

185 If a Tender Security is specified pursuant to ITT 18.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.

186 If a Tender Security is specified pursuant to ITT 18.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer signing the Contract and furnishing the Performance

The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bidder declines to extend tender validity period.

- 187 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security.
- 188 The Tender Security may be forfeited or the Tender Securing Declaration executed:
- a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereto provided by the Tenderer; or
 - b) if the successful Tenderer fails to:
 - i) sign the Contract in accordance with ITT 41;
- 189 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debar the Tenderer from participating in public procurement as provided in the law.
- 18.10 The Tender Security or Tender- Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT3.1
- 18.11 A tenderer shall not issue a tender security to guarantee itself.

19. Format and Signing of Tender

- 19.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 19.1 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 12, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number **specified in the TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 19.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 19.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation **as specified in the TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 19.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized

representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by each members' legally authorized representatives.

- 195 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

20 Sealing and Marking of Tenders

- 201 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:
- a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 20.3; and
 - b) in an envelope or package or container marked "COPIES", all required copies of the Tender; and
 - c) if alternative Tenders are permitted in accordance with ITT 12.1, and if relevant:
 - i) in an envelope or package or container marked "ORIGINAL - ALTERNATIVE TENDER", the alternative Tender; and
 - ii) in the envelope or package or container marked "COPIES-ALTERNATIVE TENDER", all required copies of the alternative Tender.
- 202 The inner envelopes or packages or containers shall:
- a) bear the name and address of the Procuring Entity.
 - b) bear the name and address of the Tenderer; and
 - c) bear the name and Reference number of the Tender.
- 203 Where a tender package or container cannot fit in the tender box, the procuring entity shall:
- a) Specify in the **TDS where** such documents should be received.
 - b) maintain a record of tenders received and issue acknowledgement receipt note to each tenderer specifying time and date of receipt.
 - c) Ensure all tenders received are handed over to the tender opening committee for opening at the specified opening place and time.
- 204 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders misplaced or opened prematurely will not be accepted.

21. Deadline for Submission of Tenders

- 21.1 Tenders must be received by the Procuring Entity at the address and no later than the date and time specified **in the TDS**. When so specified **in the TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures **specified in the TDS**.
- 21.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT7, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

22. Late Tenders

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

23. Withdrawal, Substitution, and Modification of Tenders

- 23.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT19.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
- a) prepared and submitted in accordance with ITT 20 and 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" and
 - b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.
- 23.3 Tenders requested to be withdrawn in accordance with ITT 23.1 shall be returned unopened to the Tenderers.
- 23.4 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

24. Tender Opening

- 24.1 Except as in the cases specified in ITT 20.1, the Procuring Entity shall, at the Tender opening, publicly open and read out all Tenders received by the

deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives who choose to attend, including to attend any specific electronic tender opening procedures if electronic tendering is permitted in accordance with ITT 21.1, shall be as specified **in the TDS**.

- 242 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.
- 243 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 244 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 245 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security, if required; and any other details as the Procuring Entity may consider appropriate.
- 246 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the **TDS**.
- 247 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 21.1).
- 248 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:
- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 - b) the Tender Price, per lot (contract) if applicable, including any discounts;
 - c) any alternative Tenders;
 - d) the presence or absence of a Tender Security or Tender-Securing Declaration, if one was required;
 - e) number of pages of each tender document submitted.

249 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer signature on the record shall not invalidate the contents and effect of the record. A copy of the tender opening register shall be issued to a Tenderer upon request.

E. Evaluation and Comparison of Tenders

25. Confidentiality

25.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the tendering process until the information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 41.

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

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

26. Clarification of Tenders

26.1 To assist in the examination, evaluation, comparison of the Tenders, and qualification of the Tenderers, the Procuring Entity may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the Evaluation of the Tenders, in accordance with ITT 33.2.

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

27. Deviations, Reservations, and Omissions

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

- a) "Deviation" is a departure from the requirements specified in the Tendering document;
- b) "Reservation" is the setting of limiting conditions or withholding from

complete acceptance of the requirements specified in the tendering document; and

- c) "Omission" is the failure to submit part or all of the information or documentation required in the tendering document.

28. Determination of Responsiveness

28.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT29.2D.

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

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

28.2 The Procuring Entity shall examine the technical aspects of the Tender submitted in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.

28.3 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

29. Non-conformities, Errors and Omissions

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

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

293 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in the TDS**. The adjustment shall be based on the **average** price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.

30. Arithmetical Errors

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

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

- a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive .
- b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
- c) if there is a discrepancy between words and figures, the amount in words shall prevail.

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

31. Conversion to Single Currency

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

32. Margin of Preference and Reservations

32.1 A margin of preference may be allowed on locally manufactured goods only when the contract is open to international tendering, where the tender is likely to attract foreign goods and where the contract exceeds the threshold specified in the Regulations.

32.2 For purposes of granting a margin of preference on locally manufactured goods under international competitive tendering, a procuring entity shall not subject the items listed below to international tender and hence no margin of preference shall be allowed. The affected items are:

- a) motor vehicles, plant and equipment which are assembled in Kenya;
 - b) furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather agro-processing, sanitary products, and other goods made in Kenya; or
 - c) goods manufactured, mined, extracted or grown in Kenya.
- 323 A margin of preference shall not be allowed unless it is specified so in the **TDS**.
- 324 Contracts procured on basis of international competitive tendering shall not be subject to reservations to specific groups as provided in ITT 32.5.
- 325 Where it is intended to reserve a contract to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender as specified in the **TDS**. No tender shall be reserved to more than one group. If not so stated in the Tender documents, the invitation to tender will be open to all interested tenderers.

33 Evaluation of Tenders

- 331 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the Lowest Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:
- a) substantially responsive to the tender documents; and
 - b) the lowest evaluated price.
- 332 Price evaluation will be done for the service, as specified in **the TDS**; and the Tender Price as quoted in accordance with ITT 13.6. To evaluate a Tender, the Procuring Entity shall consider the following:
- a) price adjustment due to unconditional discounts offered in accordance with ITT 13.5;
 - b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 31.1;
 - c) price adjustment due to quantifiable non-material non-conformities in accordance with ITT 29.3; and
 - d) any additional evaluation factors specified in **the TDS** and Section III, Evaluation and Qualification Criteria.
- 333 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.
- 334 The service will be evaluated in accordance with ITT 33.2. The methodology to determine the lowest evaluated tenderer or tenderers will be specified in Section III, Evaluation and Qualification Criteria.
- 335 The Procuring Entity's evaluation of a Tender will include and consider:

- a) in the case of Goods manufactured in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Tenderer;
 - b) in the case of Goods manufactured outside Kenya, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Tenderer;
- 33.6 The Procuring Entity's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted.. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in the **TDS** from amongst those set out in Section III, Evaluation and Qualification Criteria. The additional criteria and methodologies to be used shall be as specified in ITT 33.2(d).

34 Comparison of Tenders

- 34.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 33.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of total cost (place of final destination) prices for all goods and all prices, plus cost of inland transportation and insurance to place of destination, for goods manufactured within the Kenya, together with prices for any required installation, training, commissioning and other services.

35 Abnormally Low Tenders

- 35.1 An Abnormally Low Tender is one where the Tender price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that the Tender price raises material concerns with the Procuring Entity as to the capability of the Tenderer to perform the Contract for the offered Tender price.
- 35.2 In the event of identification of a potentially Abnormally Low Tender by the evaluation committee, the Procuring Entity shall seek written clarification from

the Tenderer, including a detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the tendering document.

- 35.3 After evaluation of the price analysis, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the contract for the offered Tender price, the Procuring Entity shall reject the Tender.

36 Abnormally High Tenders

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

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

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

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

37 Post-Qualification of the Tenderer

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

- 37.2 The determination shall be based upon an examination of the documentary

evidence of the Tenderer qualifications submitted by the Tenderer, The determination shall not take into consideration the qualifications of other firms such as the Tenderer subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the tendering document), or any other firm(s) different from the Tenderer.

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

38. Lowest Evaluated Tender

- 38.1 Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Lowest Evaluated Tender. The Lowest Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:
- a) most responsive to the Tender document; and
 - b) the lowest evaluated price.

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

- 39.1 The Procuring Entity reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to notification Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

40. Award Criteria

- 40.1 The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender in accordance with procedures in Section 3: Evaluation and Qualification Criteria.

41. Procuring Entity's Right to Vary Quantities at Time of Award

- 41.1 The Procuring Entity reserves the right at the time of Contract award to increase or decrease, by the percentage (s) for items as indicated **in the TDS**.

42. Notice of Intention to enter into a Contract

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

- a) the name and address of the Tenderer submitting the successful tender;
- b) the Contract price of the successful tender;
- c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;

- d) the expiry date of the Standstill Period; and
- e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

43 Standstill Period

- 43.1 The Contract shall not be awarded earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied candidate to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.
- 43.2 Where standstill period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract to the successful Tenderer.

44 Debriefing by the Procuring Entity

- 44.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 41, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.
- 44.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

45 Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

46 Signing of Contract

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

Contract Agreement.

- 462 Within fourteen (14) days of receipt of the Contract Agreement, the successful
Tenderer shall sign, date, and return it to the Procuring Entity.
463 The written contract shall be entered into within the period specified in the
notification of award and before expiry of the tender validity period.

47. Performance Security

- 47.1 Within twenty-one (21) days of the receipt of Letter of Acceptance from the
Procuring Entity, the successful Tenderer, if required, shall furnish the Performance
Security in accordance with the GCC 18, using for that purpose the Performance
Security Form included in Section X, Contract Forms. If the Performance Security
furnished by the successful Tenderer is in the form of a bond, it shall be issued by
a bonding or insurance company that has been determined by the successful
Tenderer to be acceptable to the Procuring Entity. A foreign institution providing
a bond shall have a correspondent financial institution located in Kenya, unless the
Procuring Entity has agreed in writing that a correspondent financial institution
is not required.
47.2 Failure of the successful Tenderer to submit the above-mentioned Performance
Security or sign the Contract shall constitute sufficient grounds for the annulment
of the award and forfeiture of the Tender Security. In that event the Procuring
Entity may award the Contract to the Tenderer offering the next lowest Evaluated
Tender.
47.3 Performance security shall not be required for a contract, if so specified in the **TDS**.

48. Publication of Procurement Contract

- 48.1 Within fourteen days after signing the contract, the Procuring Entity shall publish and
publicize the awarded contract at its notice boards, entity website; and on the Website of
the Authority in manner and format prescribed by the Authority. At the minimum, the
notice shall contain the following information:
- a) name and address of the Procuring Entity;
 - b) name and reference number of the contract being awarded, a summary of
its scope and the selection method used;
 - c) the name of the successful Tenderer, the final total contract price, the contract
duration.
 - d) dates of signature, commencement and completion of contract;
 - e) names of all Tenderers that submitted Tenders, and their Tender prices as read out
at Tender opening;

49. Procurement Related Complaints and Administrative Review

- 49.1 The procedures for making a Procurement-related Complaint are as specified in the
TDS.
49.2 A request for administrative review shall be made in the form provided under contract
forms.

SECTION II: TENDER DATA SHEET (TDS)

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

ITT Reference	Particulars Of Appendix To Instructions To Tenders
A. GENERAL	
ITT 1.1	The reference number of the Invitation for Tenders is: TENDER NO: MSEA/NYOTA/NCB/10/2024-2025 The Procuring Entity is: MSEA The name of the Contract is: Framework Agreement for Provision of Digital Entrepreneurship Aptitude Test (EAT) MSEA/NYOTA/NCB/10/2024-2025 The number and identification of lots (contracts) comprising this Invitation ; N/A
ITT 1.2(a)	Electronic Procurement System <i>SHALL NOT BE USED</i>
ITT 2.3	The Information made available on competing firms is: NOT APPLICABLE
	The firms that provided consulting services for the contract being tendered for are: NONE
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: JOINT VENTURE NOT ALLOWED
ITT 3.7	A list of debarred firms and individuals is available on the PPRA's website: www.ppra.go.ke
ITT 3.11	Tenderer shall be required to be registered under Government law of Kenya
B. CONTENTS OF TENDERING DOCUMENT	
ITT 6.1	<p>(a) Address where to send enquiries is: Project Supply Chain Department Micro And Small Enterprises Authority UTALII HOUSE, UTALII LANE, 10TH FLOOR P.O. Box 48823-00100 Nairobi Email: scmnyota@msea.ac.ke</p>

ITT Reference	Particulars Of Appendix To Instructions To Tenders
	<p>Requests for clarification should be received by the Procuring Entity not later than Seven (7) days to the tender closing date</p> <p>(b) The Procuring Entity publish its response at the website Web page: www.msea.go.ke</p>
ITT 6.2	A pre-tender conference will NOT BE HELD
ITT 6.3	Requests for clarification should be received by the Procuring Entity not later than Seven (7) days to the tender closing date
ITT 6.5	The Minutes of the Pre-Tender meeting shall be published on the at the website NOT APPLICABLE
C. PREPARATION OF TENDERS	
ITT 10 (j)	The Tenderer shall submit additional documents in its Tender: As Indicated in Part III Qualification and Evaluation criteria.
ITT 12.1	Alternative Tenders SHALL NOT BE considered.
ITT 13.5	The prices quoted by the Tenderer SHALL NOT be subject to adjustment during the performance of the Contract.
ITT 13.6	<p>Prices quoted for (contract) shall correspond at least to 100% percent of the service specified (contract).</p> <p>Prices quoted for each service shall correspond at least to 100% percent of the quantities specified</p>
ITT 14.2	Foreign currency requirements not allowed. The Tenderer is required to quote in the currency of Kenya Shillings (KES).
ITT 15.4	Period of time the Goods are expected to be functioning (for the purpose of spare parts): NOT REQUIRED

ITT Reference	Particulars Of Appendix To Instructions To Tenders
ITT 16.2 (a)	Manufacturer's authorization is: NA
ITT 16.2 (b)	After sales service is: N/A
ITT 16.7	The prices quoted by the Tenderer SHALL NOT be subject to adjustment during the performance of the Contract.
ITT 17.1	The Tender validity period shall be 120 days.
ITT 17.3	<p>(a) The Number of days beyond the expiry of the initial tender validity period will be 30 days.</p> <p>(b) The Tender price shall be adjusted by the following percentages of the tender price: THIS IS NOT REQUIRED</p> <p>(i) By _____% of the local currency portion of the Contract price adjusted to reflect local inflation during the period of extension, and</p> <p>(ii) By _____% the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension</p>
ITT 18.1	<p>[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.]</p> <p>A Tender Security SHALL NOT be required.</p>
ITT 19.1	In addition to the original of the Tender, the number of copies is: 1 (one) copy of the original tender
ITT 19.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: The Power of Attorney authenticated by Commissioner of Oaths or Notary Public
D. SUBMISSION AND OPENING OF TENDERS	
ITT 20.3	A tender package or container that cannot fit in the tender box shall be received as follows: PROCUREMENT OFFICE LOCATED AT MSEA MEZZANINE FLOOR, UTALII HOUSE.

ITT Reference	Particulars Of Appendix To Instructions To Tenders
ITT 21.1	<p>For Tender submission purposes only, the Procuring Entity's address is</p> <p>THE CHIEF EXECUTIVE OFFICER, MICRO AND SMALL ENTERPRISES AUTHORITY, UTALII HOUSE, UTALII LANE, MEZZANINE ONE P.O. BOX 48823 - 00100, NAIROBI.</p> <p>Tender Box placed at the reception</p> <p>Electronic mail address: NOT APPLICABLE</p> <p>THE DEADLINE FOR TENDER SUBMISSION is: Date: 28th JANUARY, 2025 time: 11:00 A.M. EAST AFRICA TIME</p> <p>Tenderers SHALL NOT have the option of submitting their Tenders electronically.</p> <p>The electronic Tendering submission procedures shall be: NOT APPLICABLE</p>
ITT 24.1	<p>The TENDER OPENING shall take place at:</p> <p>MICRO AND SMALL ENTERPRISES AUTHORITY, UTALII HOUSE, UTALII LANE, MEZZANINE ONE P.O BOX 48823-00100, NAIROBI.</p> <p>Date: 28th JANUARY, 2025 Time: 11:00 A.M. EAST AFRICA TIME</p> <p>The electronic Tender opening procedures shall be: NOT APPLICABLE</p>
ITT 24.6	<p>The number of representatives of the Procuring Entity to sign is ALL TENDER OPENING COMMITTEE MEMBERS</p>
D. EVALUATION AND COMPARISON OF TENDERS	
ITT 29.3	<p>The manner of rectify quantifiable nonmaterial nonconformities described below: NOT APPLICABLE</p>
ITT 31.1	<p>The currency that shall be used for Tender evaluation and comparison purposes to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: PRICE QUOTED MUST BE IN KENYA SHILINGS</p> <p>The source of exchange rate shall be: NOT APPLICABLE</p>

ITT Reference	Particulars Of Appendix To Instructions To Tenders
	The date for the exchange rate shall be: NOT APPLICABLE
ITT 32.3	A margin of preference and/or reservation SHALL NOT apply
ITT 32.5	The invitation to tender is extended to the following group that qualify for Reservations: NOT APPLICABLE who shall be duly registered with: NOT APPLICABLE
ITT 33.2	Price evaluation will be done for single contracts
ITT 33.2 (d)	<p>Additional Evaluation Factors Are as follows:</p> <ul style="list-style-type: none"> i. All Costs Must Be Inclusive of All Applicable Taxes. ii. Bidders Must Comply with The Financial Evaluation in The Format Provided For In The Tender Document And Award Will Be The Lowest Evaluated Bidder iii. Bids with Arithmetic Errors Will Be Disqualified <p>(More Evaluation Factors Are in Section iii)</p>
ITT 33.6	(a) The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: NOT APPLICABLE
E. AWARD OF CONTRACT	
ITT 41.1	<p>The maximum percentage by which quantities may be increased is: NOT APPLICABLE</p> <p>The maximum percentage by which quantities may be decreased is: NOT APPLICABLE</p>
ITT 41.1	The Procuring Entity shall increase or decrease the quantity of Goods and Related Services by an amount not exceed _____% and without any change in the unit prices or other terms and conditions of the Tender and the tendering document. NOT APPLICABLE
ITT 49.1	The procedures for making a Procurement-related Complaint are detailed in the

ITT Reference	Particulars Of Appendix To Instructions To Tenders
	<p>“Notice of Intention to Award the Contract” herein and are also available from the PPRA Website www.ppra.go.ke.</p> <p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to:</p> <p>The Director General Public Procurement Regulatory Authority (PPRA) P.O. Box 58535-00100 NAIROBI. Tel:(+254) 020-3244000/020-2213106/7 Email: <i>info@ppra.go.ke; feedback@ppra.go.ke</i></p> <p>Procurement-related Complaint may challenge any of the following:</p> <ol style="list-style-type: none"> 1. The terms of the Tendering Documents; and 2. The Procuring Entity’s decision to award the contract.

SECTION III: EVALUATION AND QUALIFICATION CRITERIA

1. General Provisions

- 11** Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:
- a)** For business turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
 - b)** Value of single contract - Exchange rate prevailing on the date of the contract signature.
 - c)** Exchange rates shall be taken from the publicly available source identified in the ITT 14.3. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.
- 12** This section contains the criteria that the Procuring Entity shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than those specified in this tender document. The Tenderer shall provide all the information requested in the forms included in **Section IV**, Tendering Forms.

2. Evaluation of Tenders (ITT 33)

21 Successful Tender or Tenders The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate Tenders. By applying these criteria and methodologies, the Procuring Entity shall determine the successful Tender or Tenders which has/have been determined to:

- a) be substantially responsive to the tender documents;
- b) offer the lowest evaluated cost to the Procuring Entity for the service to be procured based on either a single Contract or all multiple Contracts combined, as the case may be, in accordance with the ITT 13.6 inviting Tender prices and discounts, and provisions made of the Tender Document for evaluation of tenders and award of contract (s); and
- c) be offered by Tenderer or Tenderers that substantially meet the qualification criteria applicable for Contract or combined Contracts for which they are selected.

22 Evaluation of Tenders

Qualification and Award

The Qualification for award shall be based on combined score where both technical and financial scores shall be taken into consideration.

The evaluation shall be carried out in four stages as provided below.

Due diligence will be carried out and tenderers found to have given false information at any stage of evaluation will be disqualified and the tender rejected.

The specifications in the tables are just for guidance and therefore the bidders are required to respond to all the requirements stated in this entire document and are free to propose any features that will give added advantage .

Criteria for the Technical Evaluation

Tenders received will be evaluated in five (5) stages as detailed as follows:

1. **Stage 1:** Compliance with Mandatory Preliminary Requirements – Pass/ Fail
2. **Stage 2:** The Technical Evaluation (Capacity to Deliver the Service)
 - Section I: Mandatory Technical requirement
 - Section II: Technical scoring
 - Section II: Demo
3. **Stage 3:** The Financial Evaluation
4. **Stage 4:** Ranking as per price quoted
5. **Stage 5:** Due-diligence

Evaluation will be based on the technical proposal submitted including the dully filled forms. The following criteria shall be used for the respective stages: -

STAGE 1- PRELIMINARY MANDATORY EVALUATION

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. Tenders that do not pass the Preliminary Examination will be considered non-responsive and will not be considered further.

No.	Requirements	Pass/Fail
MR1	Must submit duly filled, signed and stamped Price Schedule Form on confirmation that prices provided are free from arithmetical error, erasures and cancellation.	
MR2	Must submit duly filled, signed and stamped Form of Tender in the format provided (in the tender document)	
MR3	Must attach a copy of Certificate of Registration/Incorporation from the Registrar of Companies or County Council.	
MR4	Must attach a copy of valid Business permit	
MR5	Must attach a copy of valid tax compliance	
MR6	Must submit duly filled, signed and stamped Tenderer's Eligibility- Confidential Business Questionnaire Form in the format provided in the tender document.	
MR7	Must Submit a completed company's profile and a copy of CR12/CR13 from issued by the Registrar of companies	
MR8	Must submit duly filled, signed and stamped SD1 Form (in the format provided) on self-declaration that the person/tenderer is not debarred in the matter of the Public Procurement and Asset Disposal Act,2015 (Form SD1)	
MR9	Must submit a duly filled, signed and stamped SD2 Form (in the format provided) on self-declaration that the person/ tenderer will not engage in any corrupt or fraudulent practice (FORM SD2)	
MR10	Must submit a duly filled, signed and stamped Form on Declaration and Commitment to The Code of Ethics in the format provided (in the tender document)	
MR11	Must submit a duly filled, signed and stamped form on Tenderer Information Form in the format provided (in the tender document)	
MR12	Must submit bid document that is properly Tape Bound, paginated (in sequence) and has table of content . Note: loose copies, spiral bound documents use of spring files and box files will not be accepted)	
MR13	Must submit a satisfactory credit rating certificate from accredited credit rating agency	
MR14	Valid ICTA 1 compliance certificate for systems, data processor and controller, CSP Licence.	

NOTE:

Tenderers submission will either be responsive or non- responsive. failure to meet any of the above mandatory requirements will lead to automatic disqualification from further evaluation.

STAGE 2: THE TECHNICAL EVALUATION (CAPACITY TO DELIVER THE SERVICE)

Section I: Mandatory Technical requirement (YES/NO)

Section II: Scoring of all the other Technical requirements not considered in the mandatory technical requirements section

Section III: Demo Scoring

Weightage: The pass mark shall be **80%** out of 100% to qualify for opening of financial proposals.

Evaluation Attribute	Weighting Score	Total Score
Section I: Mandatory Technical requirement (YES/NO)		
<p>Implementation Experience</p> <p>Implemented an Automated Systems – give at least three sites done in the last 5 years. The following information must be provided for the three provided references by the bidder</p> <ol style="list-style-type: none">1. List in the provided table the list of references indicating the Organization, Address (physical & Telephone), key contact person, Implementation scope, duration of the assignment, contract amount and firm's involvement.2. Provide evidence of implementation in terms of extracts from the contract completion/GO LIVE certificate and reference letters.3. Proven experience in developing online assessment systems or similar platforms. Knowledge of entrepreneurship program requirements. Strong technical expertise in web and mobile application development. Have experience integrating inclusive and accessible design principles. Show a strong understanding of regional and socio-economic dynamics. Demonstrate expertise in developing assessment platforms with randomized testing and scoring systems. <p><i>NB: Incomplete contact details, lacking evidence of contract information shall invalidate the reference site</i></p>	YES/NO	
Attached Brochure and submission of the proposed hardware / Cloud requirement	YES/NO	
The solution will be evaluated on meeting the identified mandatory system requirement as outlined in this document	YES/NO	
The bidders that will meet the Preliminary/Mandatory Evaluation stage requirements shall be subjected to the technical capacity evaluation.		

Section II		
Scoring of the all the detailed Technical requirements in all the sections in this bid document that were not considered in the mandatory technical requirements		
<u>Technical Evaluation Based on the System/Product Functional Requirements</u>	Full compliance	
1. TECHNICAL SPECIFICATIONS: The solution will be evaluated on meeting the detailed terms of reference (requirements in all the sections of the bid (Clauses 5.7.2.1 to 7.6.2) as outlined in this document . The bidder to attach the brochure with clearly referenced pages that describe the features.	50	
2. TECHNICAL STAFF COMPETENCES (TOTAL SCORE=25%)		
Attach the CVs accompanied by copies of Academic and specialization certificates for key personnel proposed for administration and execution of the contract		
Project Manager <ol style="list-style-type: none"> Master's in Business Administration, Computer Science, Engineering, IT or related degree (S)He should have a minimum of 10 years' experience in Digital systems a minimum of 6 years' experience in Project Management. Must hold a globally recognized Software Systems Analytics Certification issued by a globally recognized software platform (e.g., Zoho Analytics Certification, Google Data Analytics, Tableau Certification). Professional experience in developing and implementing and managing scalable systems with competencies in integrated systems and information security management and IT in general. Give a minimum of three projects. ICT related certification , PRINCE2/PMI or other equivalent project management certifications 	5	
Security expert <ol style="list-style-type: none"> B.SC/ in Computer Science, Engineering or related degree Have relevant certifications in the area of system security. 3+ years of experience in ICT security field and should have experience in ICT systems security and design, development, Implementation of security solutions. Give reference a minimum of four projects 	5	
System designer and developer/System Engineer <ol style="list-style-type: none"> B.SC/ in Computer Science, Engineering or related degree Have relevant certifications in online examination systems development e.g. expert system engineering professional (ESEP), certified system engineering professional (CSEP) etc. and have relevant certification in the area of web-based systems 	5	

<p>and certification in various Programming software e.g. C, C++, ORACLE, MYSQL, the area.</p> <p>3. 3+ years of experience in ICT system design, development and implementation with a bias on online exam systems implementation. Give a minimum of four projects.</p>		
<p>System Integrator</p> <p>1. B.SC/ in Computer Science, Engineering or related degree</p> <p>2. Have relevant certifications in systems development e.g. expert system engineering professional (ESEP), certified system engineering professional (CSEP) etc. and have relevant certification in the area of web-based systems and certification in various Programming software e.g. C, C++, ORACLE, MYSQL, the area.</p> <p>3. 3+ years of experience in ICT system design, development and implementation with a bias on Proctoring systems</p>	5	
<p>Experts in Systems Administration</p> <p>1. B. Sc in computer science/IT or relevant field and have relevant certifications in the area of ICT infrastructure (e.g networks. Hardware etc)</p> <p>2. Experience in installing, maintaining and upgrading IT systems, Give reference of 3 projects</p>	5	
Implementation Methodology (10 points)		
<p>Provide a detailed implementation methodology indicating the following, as a minimum:</p> <ol style="list-style-type: none"> 1. Project plan and organization 2. Integration strategy 3. Project Management Methodology 4. Sample Service Level Agreement and Support plan 5. In case of a joint bid, produce "Detailed Responsibility Matrix", duly signed, demarcating the roles of the vendors implementing Application 	10	
<p>Demo of the Stage IV – Product Demo/ Visits (15%) system</p> <p>Only bidders who achieve 70% and above in stages II section II shall get to this stage.</p> <ul style="list-style-type: none"> • Qualifying bidders shall be invited to demonstrate their product and capability at a date and time to be communicated later. The qualified bidders at this stage shall be evaluated for their capability to deliver, implement and support the proposed solution. The demo shall be to validate the information supplied in the checklists above. Bidders will be required to prepare a demonstration/prototype of the proposed EAT system. 	15	

<p>This will account for 15% of the total technical score. The following will be considered for scoring:</p> <ul style="list-style-type: none"> • How well the demo fits the requirements general and per module 11 • User interface and self-service portal 2 • Any value add and how it fits the needs of the Agency 2 		
Totals		100
<p>Bids that score 80% in the technical evaluation stage will proceed to stage III of financial evaluation. Bids that score less than 80% shall be treated as non-responsive and will not be evaluated further.</p>		

Stage 3: THE FINANCIAL EVALUATION

Only Bids that scored 80% and above in the technical evaluation stage will be considered in this stage 3 of financial evaluation.

The unit cost of providing the solution should be a consolidated figure per youth in Kenya shillings inclusive of taxes and encompassing the following;

	Description	Unit cost per Youth (KShs. Inclusive of taxes)
1.	Provide digital Entrepreneurship Aptitude Test (EAT) through various platforms i.e. Reply enabled SMS, Web portal & related apps and Cost of Development, setup and Deployment service.	
	GRANT TOTALS	

Stage 4: Ranking as per price quoted

The bidders who achieve or exceed the minimum technical evaluation score will be ranked as per the price quoted.

Stage 5: Due-diligence

The bidder who emerges winner with the lowest quoted price will be subjected to due diligence by the evaluation committee for ground truthing of their submissions.

Documenting recommendations on the tender award

NOTE:

i) The Procuring Entity shall award the contract to the tenderer with the lowest evaluated price; and

has been determined to be substantially responsive. In the circumstance the lowest does not accept the award/or fail to perform the subject tender, the next lowest bidder may be considered for award.

ii) The lowest evaluated tenderer will be awarded **Framework Contract**, provided the tenderer meets the Eligibility and Qualification Criteria. However, renewal will be subject to availability of funds in the budget and satisfactory performance.

iii) Negotiation may be carried out

SECTION IV - TENDERING FORMS (STANDARD FORMS)

Notes on the standard Forms:

1. **Form of Tender** - The form of Tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. **Price Schedule Form** - The price schedule form must similarly be completed and submitted with the tender.
3. **Tender Information Questionnaire Form**- This form must be completed by the tenderer and submitted with the tender documents
4. **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents
5. **Self-declaration** that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act 2015; This form must be completed by the tenderer and submitted with the tender documents
6. **Self-declaration** that the person/tenderer will not engage in any corrupt or fraudulent practice: This form must be completed by the tenderer and submitted with the tender documents
7. **Declaration and commitment to the code of ethics.** This form must be completed by the tenderer and submitted with the tender documents
8. **Contract Form** - The contract form shall not be completed by the tenderer at the time of

submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.

1. FORM OF TENDER

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS

- i) *All italicized text is to help the Tenderer in preparing this form.*
- ii) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.*

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

Name and Identification:.....[insert identification]

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

To:.....[Insert complete name of Procuring Entity]

- a) **No reservations:** We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with Instructions to tenderers (ITT 7);
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3;
- c) **Tender/Proposal-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing Declaration. Or Proposal- Securing Declaration in Kenya in accordance with ITT 3.6;
- d) **Conformity:** We offer to supply in conformity with the Tendering document and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: [insert a brief description of the Goods and Related Services];
- e) **Tender Price:** Insert the unit price for the service ***in words and figures*** as per the table below:

NOTE:

(Capacity Building Levy: Public Procurement Capacity Building Levy Order, 2023 (Issued by the Cabinet Secretary, National Treasury and Economic Planning), vide Legal Notice No.206 of 6th November, 2023 provides that 'there shall be paid a levy by a Service provider on all procurement contracts signed between the Service provider and a procuring entity, at the rate of zero point zero three percent (0.03%) of the value of the signed contract, exclusive of applicable taxes').

	ITEM DESCRIPTION	TOTAL UNIT COST PER YOUTH IN FIGURES(KSH) (Inclusive of Capacity Building Levy (0.03%) & VAT (16%)) (Obtained from Price Schedule)	TOTAL UNIT COST PER YOUTH IN WORDS (KSH) (Inclusive of Capacity Building Levy (0.03%) & VAT (16%)) (Obtained from Price Schedule)
1	Provide digital Entrepreneurship Aptitude Test (EAT) through various platforms i.e. Reply enabled SMS, Web portal & related apps and Cost of Development, setup and Deployment service.		
GRAND TOTAL			

- f) **Discounts:** The discounts offered and the methodology for their application are:
- i) The discounts offered are: [*Specify in detail each discount offered.*]
 - ii) The exact method of calculations to determine the net price after application of discounts are shown below: [*Specify in detail the method that shall be used to apply the discounts*];
- g) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 17.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 21.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- h) **One Tender per tenderer:** We are not submitting any other Tender(s) as an individual tenderer, and we are not participating in any other Tender(s) as a Joint Venture member, or as a subcontractor, and meet the requirements of ITT 3.9, other than alternative Tenders submitted in accordance with ITT 12;
- i) **Suspension and Debarment:** We, along with any of our subcontractors, Service providers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not

controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Procuring Entity. Further, we are not ineligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;

- j) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state- owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.7];*
- k) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

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

- l) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- m) **Procuring Entity Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and
- n) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- o) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from _____ *(specify website)* during the procurement process and the execution of any resulting contract.
- p) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent tender Determination” attached below.
- q) **Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

r) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:

- a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest;
- b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers;
- c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption; and
- d) Declaration and Commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1- Fraud and Corruption**” attached to the Form of Tender.

Name of the tenderer: **[insert complete name of the tenderer]*

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

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

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

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

*: In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as tenderer.

**.: Person signing the Tender shall have the power of attorney given by the tenderer. The power of attorney shall be attached with the Tender Schedules.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder **Official**
Stamp.....

2.CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the _____
_____ [Name of Procuring
Entity] for: _____ [Name and number of
tender] in response to the request for tenders made by: _____ [Name of Tenderer]
do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____ [Name of
Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 - a) has been requested to submit a Tender in response to this request for tenders;
 - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
 - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) methods, factors or formulas used to calculate prices;
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above;

7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name

Title

Date

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official

Stamp.....

3.SELF-DECLARATION FORMS

FORM SD1: SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official
Stamp.....

4 FORM SD2:SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE

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

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

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

Bidder's Official Stamp:.....

5.DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I..... (Person) on behalf of
(Name of the Business/ Company/Firm).....declare that I have
read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015,
Regulations and the Code of Ethics for persons participating in Public Procurement and Asset
Disposal and my responsibilities under the Code.

I do hereby commit to abide by the provisions of the Code of Ethics for persons
participating in Public Procurement and Asset Disposal.

Name of Authorized

signatory.....

Sign.....

Position.....

Office address.....Telephone.....

E-mail.....

Name of the Firm/Company

.....

Date.....

(Company Seal/ Rubber Stamp where applicable).....

Witness

Name

Sign.....

Date.....

APPENDIX 1- FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

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

2. Requirements

- 2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Service providers; any Sub-contractors, Sub-consultants, Service providers or Service providers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.
- 2.2 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:
- 1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
 - 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
 - 3) Without limiting the generality of the subsection (1) and (2), the person shall be—
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be voidable;
 - 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
 - 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement:-
 - a) shall not take part in the procurement proceedings;
 - b) shall not, after a procurement contract has been entered into, take

- part in any decision relating to the procurement or contract; and
 - c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
 - 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
 - 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.
- 23 In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 - i) "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v) "obstructive practice" is:
 - deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to

the investigation or from pursuing the investigation; or

- acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.

- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.

- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, Service providers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Service providers, and their Sub-contractors, Sub-consultants, Service providers, Service providers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

¹For the avoidance of doubt, a party's ineligibility to be awarded a contract shall

include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or Service provider, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official

Stamp.....

Section IV - Fraud and Corruption (Section IV shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); Bidders (applicants/proposers), consultants, contractors and Service providers; any sub-contractors, sub-consultants, service providers or Service providers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

- a. Defines, for the purposes of this provision, the terms set forth below as follows:
 - i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.
- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, Service providers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process,

selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;

- d. Pursuant to the Bank's Anti-Corruption Guidelines, and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or Service provider, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) Bidders (applicants/proposers), consultants, contractors, and Service providers, and their sub-contractors, sub-consultants, service providers, Service providers, agents, personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.
- f. Requires that, for Bank-financed operations to be implemented utilizing national procurement arrangements, as well as PPPs, agreed by the Bank, bidders (applicants/proposers) and consultants submitting bids/proposals will be required to accept the application of, and agree to comply with, the Anti-Corruption Guidelines during the procurement process, selection and/or contract execution, including the Bank's right to sanction as set forth in paragraph 2.2 d., and the Bank's inspection and audit rights as set forth in paragraph 2.2 e. Borrowers shall consult and apply the World Bank Group's lists of firms and individuals suspended or debarred. In the event a Borrower signs a contract with a firm or an individual suspended or debarred by the World Bank Group, the Bank does not finance the related expenditures and may apply other remedies as appropriate; and
- g. Requires that, when a Borrower selects a United Nations (UN) agency to provide goods, works, non-consulting services and technical assistance services in accordance with paragraphs 6.47-6.48 and 7.27-7.28 of these Procurement Regulations under an agreement signed between the Borrower and the UN agency, the above provisions of paragraph 2 of this annex regarding sanctions on Fraud and Corruption shall apply in their entirety to all contractors, consultants, sub-contractors, sub-consultants, service providers, Service providers, and their employees, that signed contracts with the UN agency. As an exception to the foregoing, paragraphs 2.2 d. and 2.2 e. do not apply to the UN agency and its employees, and paragraph 2.2 e. does not apply to the contracts between the UN agency and its service providers and Service providers. In such cases, the UN agency applies its own rules and regulations for investigating allegations of Fraud and Corruption, subject to such terms

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

² A nominated sub-contractor, nominated consultant, nominated manufacturer or Service provider, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the Bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the Bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

and conditions as the Bank and the UN agency may agree, including an obligation to periodically inform the Bank of the decisions and actions taken. The Bank retains the right to require the Borrower to invoke remedies such as suspension or termination. UN agencies shall consult the World Bank Group's lists of firms and individuals suspended or debarred. In the event a UN agency signs a contract or purchase order with a firm or an individual suspended or debarred by the World Bank Group, the Bank does not finance the related expenditures and may apply other remedies as appropriate.

2.3 With the specific agreement of the Bank, a Borrower may introduce into the Request for Bids/Request for Proposals document for contracts financed by the Bank, a requirement that the bidder or consultant include in the bid or proposal an undertaking of the bidder or consultant to observe, in the Procurement Process, the country's laws against fraud and corruption (including bribery) as such laws have been identified in the Request for Bids/Request for Proposals documents. The Bank will accept the introduction of such a requirement at the request of the Borrower, provided the arrangements governing the undertaking are satisfactory to the Bank.

(Title)

(Signature)

(Date)

Bidder Official

Stamp.....

6. TENDERER INFORMATION FORM

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

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

Tender Name and Identification..... *[Insert identification]*

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

Page _____ of _____ pages

1. Tenderer's Name <i>[insert Tenderer's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Tenderer's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Tenderer's year of registration: <i>[insert Tenderer's year of registration]</i>
5. Tenderer's Address in country of registration: <i>[insert Tenderer's legal address in country of registration]</i>
6. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>

7. Attached are copies of original documents of *[check the box(es) of the attached original documents]*

For Kenyan Tenderers a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.

Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.4.

In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1.

In case of state-owned enterprise or institution, in accordance with ITT 4.6 documents establishing:

(i) Legal and financial autonomy

(ii) Operation under commercial law

(iii) Establishing that the tenderer is not under the supervision of the Procuring Entity

2. Included are the organizational chart and a list of Board of Directors

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official
Stamp.....

7. TENDERER'S JV MEMBERS INFORMATION FORM

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

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

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

Page _____ of _____ pages

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

10.TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

a) Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form.

A. Tenderer's details

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	
2	Name of the Tenderer	
3	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
4	Reference Number of the Tender	
5	Date and Time of Tender Opening	
6	Current Trade License No and Expiring date	
7	Maximum value of business which the Tenderer handles.	

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full_____

Age_____Nationality_____

Country of Origin _ _ _ _ _ Citizenship _____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

(d) Registered Company, provide the following details.

i) Private or public Company _____

ii) State the nominal and issued capital of the Company-

Nominal Kenya Shillings (Equivalent)

Issued Kenya Shillings (Equivalent)

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

(e) **DISCLOSURE OF INTEREST**- Interest of the Firm in the Procuring Entity.

(i) Are there any person/persons in (*Name of Procuring Entity*) who has an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows.

	Names of Person	Designation in the Procuring Entity	Interest Relationship or with Tenderer
1			
2			
3			

(ii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly		

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

(f) Certification

On behalf of the Tenderer, I certify that the information given above is correct.

Full Name _____

Title or Designation _____

Bidder Stamp.....
Official
.....
(Signature)

.....
(Date)

FORM NO. 11 TENDER-SECURING DECLARATION FORM

[The Bidder shall complete this Form in accordance with the instructions indicated]

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

Tender No.: [insert number of tendering process]

To: [insert complete name of Purchaser] I/We, the undersigned, declare that:

- 1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
- 2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we – (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders. 852 Kenya Subsidiary Legislation, 2020
- 3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
 - (a) our receipt of a copy of your notification of the name of the successful Tenderer; or
 - (b) thirty days after the expiration of our Tender.
- 4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:.....

Capacity / title (director or partner or sole proprietor, etc.)

Name:

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

Dated on day of, [Insert date of signing] Seal or stamp

SECTION V : A1-PRICE SCHEDULE

(Details about Capacity Building Levy:

Public Procurement Capacity Building Levy Order, 2023 (Issued by the Cabinet Secretary, National Treasury and Economic Planning), vide Legal Notice No.206 of 6th November, 2023 provides that ‘there shall be paid a levy by a Service provider on all procurement contracts signed between the Service provider and a procuring entity, at the rate of zero point zero three percent (0.03%) of the value of the signed contract, exclusive of applicable taxes’).

Insert Unit Price, Capacity Building Levy, Vat and Total Unit Price (made up of unit price, Capacity Building Levy and VAT) as per the price schedule table below:

	ITEM DESCRIPTION	TOTAL UNIT COST PER YOUTH IN FIGURES (KSH) (Inclusive of Capacity Building Levy (0.03%) & VAT (16%)) (Obtained from Price Schedule)	TOTAL UNIT COST PER YOUTH IN WORDS (KSH) (Inclusive of Capacity Building Levy (0.03%) & VAT (16%)) (Obtained from Price Schedule)
1	Provide digital Entrepreneurship Aptitude Test (EAT) through various platforms i.e. Reply enabled SMS, Web portal & related apps and Cost of Development, setup and Deployment service.		
GRAND TOTAL			

I/We the Tenderer do hereby confirm that our price is free from arithmetical error, erasures and cancellation.

Signature: _____ and seal/Stamp _____

Name: _____

Position: _____

Authorized for and on behalf of (*specify name of tenderer*)

Date _____

PART 2: SERVICE TOR'S



MICRO AND SMALL ENTERPRISES AUTHORITY

TERMS OF REFERENCE

FOR

**DEVELOPMENT, CONFIGURATION, TESTING AND
IMPLEMENTATION OF A DIGITAL ENTERPRENUERSHIP
APTITUDE TEST SYSTEM**

5.1. Background

1 INTRODUCTION

The National Youth Opportunities Towards Advancement (NYOTA) is a project fully funded by an International Development Association (IDA) credit to the Government of Kenya (GOK). NYOTA will focus on setting a foundation and systems for sustained creation of opportunities for employment, earnings and savings to improve economic empowerment among the youth in all 47 counties and will crowd in partnerships from the private sector employers and counties to generate meaningful employment for a large number of vulnerable youth in Kenya.

The project is anchored on the six core pillars definitive of government priority areas, namely: Agriculture; Micro, Small and Medium Enterprise (MSME) economy; Housing and Settlement; Healthcare; Digital superhighway and creative economy; Environment and climate change. The alignment of NYOTA to the Bottom - Up Economic Transformation Agenda (BETA) is geared towards achieving economic turnaround and inclusive growth. Special focus will be placed on increased employment, equitable distribution of income, increased food security, and raising productivity of key value food chains to reduce dependence on basic food imports while also expanding the tax revenue base.

5.2. PROBLEM STATEMENT

Challenge of developing a centralized digital entrepreneurship exam platform that enhances the efficiency and effectiveness of the exam process, providing a secure, scalable, and user-friendly solution for the fair, transparent and verifiable selection process for youth to be inducted to the NYOTA component 2 program.

Objective

To develop a secure, reliable, and user-friendly digital exam platform that facilitates the creation, administration, and evaluation of Entrepreneurial Aptitude Test for NYOTA Component 2 program.

5.3. Objectives

The following are the specific objectives: -

- (i) Review of the processes, workflows and any other workflow which NYOTA COMPONENT 2 shall suggest during the implementation.
- (ii) Design and implement a multi access web-based Digital EAT system to automate the selection of beneficiaries.
- (iii) Implement dashboard capabilities to facilitate online status reporting and informed strategic management decisions.

- (vi) Integrate with other systems e.g. MIS and any other system that shall be found necessary for future NYOTA COMPONENT 2 operations.
- (vii) Improve program productivity through the reduction of time spent on managing documents among others.
- (viii) Integrate and allow for future scalability and adoption of emerging technologies e.g. Business analytics, big data and analytics etc.

5.4. Scope of Work, Deliverables and Acceptance Process

5.4.1. Scope,

The scope of work includes the end to end configuration and delivery of the Digital EAT Solution that consists of modules described in well-articulated steps and deliverables identified in this document. The vendor will give the best scenario of the license regime to implement the Test.

5.4.2. In order for NYOTA to get maximum benefit from implementing this system, the successful bidder will be expected to: -

- i. **System Design & Development:** Develop a web-based and/or mobile-friendly assessment platform. Include various question formats: multiple-choice, essay-type, and scenario-based. Incorporate adaptive testing mechanisms to cater to diverse skill levels.
- ii. **Content Development:** Collaborate with program stakeholders to create a comprehensive question bank focused on entrepreneurial skills, including problem-solving, innovation, and financial literacy. Include psychometric tools to measure traits such as risk-taking ability and leadership.
- iii. **Scoring System:** Implement automated scoring for objective sections and guided scoring for subjective sections. Set customizable cutoff marks per region, considering regional and socio-economic disparities. Provide weighted scoring for candidates from marginalized or underserved groups to ensure equity.
- iv. Setup data validation, data analysis, data extraction, system backup and procedures
- v. Setup necessary ICT security measures for the System
- vi. Installation, configuration, test and setup of the appropriate software, licenses and kits.
- vii. Provide specifications and configure the availed appropriate hardware to host and run the platform effectively and Advise the Agency on the future hardware / Cloud requirements for scalability
- viii. Integration with existing systems and use of big data and data mining tools to get data from the various systems to validate and give insights through various analytics.
- ix. Migration of relevant data from existing systems if any.
- x. Propose and implement a comprehensive training program for all users as agreed with the NYOTA COMPONENT 2. (e.g. common users, specialized ICT technical Staff, etc)
- xi. Preparation and timely submission of project reports.
- xii. The system should allow for data capture directly from participants through Web and Reply Enabled SMS channels plus any other secure and innovative digital communication channels.

5.4.3. Summary of Targeted modules and functions

The following are the summarised modules that will be configured in the Digital EAT platform

	Process/Function	Re-Engineered Processes
1.	Common Functions/Cross cutting functions	<ul style="list-style-type: none"> • Ability to support real-time database update of transactions • Ability to support relational databases (RDBMS) • Ability to support database replication for disaster recovery purposes • Provide three tier architecture – Client, Application Server/Web Server, Database Server • Provide an architecture that provides security, scalability and • Reporting on a dashboard for different categories of users • Business intelligence tool for Creation of ad hoc query reports, analysis, dashboard, and user friendly information search and navigation functionality • Installation and configuration of Set-up role based access for each users • Ability to preview reports before printing • The system should integrate well with the third party systems
2.	EAT Function	<ul style="list-style-type: none"> • Exam Creation and Management: <ul style="list-style-type: none"> ○ Question Types: Support various question types, including multiple-choice, true/false, short answer, essay, and interactive questions (e.g., drag-and-drop). ○ Question Bank: Create and manage a question bank with categorization, tagging, and metadata for easy retrieval and reuse. ○ Exam Templates: Provide customizable exam templates to streamline exam creation. ○ Randomization: Implement question and answer randomization to minimize cheating. • Exam Administration: <ul style="list-style-type: none"> ○ Scheduling: Flexible scheduling options, including start/end times, time limits, and availability windows.

		<ul style="list-style-type: none"> ○ Accessibility: Ensure the platform is accessible to users with disabilities, complying with standards such as WCAG (Web Content Accessibility Guidelines). ● Exam Delivery: <ul style="list-style-type: none"> ○ User Interface: Intuitive and responsive interface compatible with various devices (desktops, tablets, smartphones). ○ Offline Mode: Allow for offline exam attempts with automatic synchronization once the connection is restored. ○ Security: Implement robust security measures to prevent cheating, including browser lockdown, IP restrictions, and encrypted communication. ○ Reply Enabled SMS capability as an alternative to web version. ○ Any other additional secure communication channel. ● Scoring and Feedback: <ul style="list-style-type: none"> ○ Automated Scoring: Immediate scoring for objective questions with configurable grading schemes. ○ Intelligent Algorithm: Use variable inputs to determine pass mark per county so to ensure that only the required number of applicants are selected and an appropriate number are put in the waiting list. ● Reporting and Analytics: <ul style="list-style-type: none"> ○ Performance Reports: Generate detailed performance reports for beneficiaries and administrators. ○ Analytics: Provide insights into exam performance, question difficulty, and overall trends. ○ Data Export: Support exporting data in various formats (e.g., CSV, PDF) for external analysis. ● Integration: <ul style="list-style-type: none"> ○ MIS Integration: Seamless integration with Management Information Systems. ○ API: Provide APIs for integration with other systems. ● Scalability and Reliability: <ul style="list-style-type: none"> ○ Cloud Infrastructure: Leverage cloud infrastructure to ensure scalability and high availability.
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		<ul style="list-style-type: none"> ○ Load Balancing: Implement load balancing to handle high traffic during peak exam periods. ○ Backup and Recovery: Regular data backups and a robust disaster recovery plan. ● Compliance and Data Privacy: <ul style="list-style-type: none"> ○ Regulatory Compliance: Ensure compliance with relevant regulations (e.g., DPA). ○ Data Privacy: Implement strong data privacy measures to protect user information.
3.	ICT	<ul style="list-style-type: none"> ● Help desk ● Backup processes ● Data recovery processes ● System logs management

5.5. Project Implementation Stages and Deliverables

5.5.1. Project implementation process

The Project is organized in seven (7) stages as listed hereunder:

- **Stage 1: *Project planning and conceptual solution definition:*** conducting feasibility, understanding the requirements and developing the Project plan.
- **Stage 2: *Detailed analysis and design of the solution:*** Create user requirements blueprint and design the web-based platform prototype based on the blueprint.
- **Stage 3: *Development/customization and configuration*** of the platform incorporating the user comments including testing of each module
- **Stage 4: *Preparation of the required hardware / Hosting environment*** to ensure smooth implementation of the proposed platform.
- **Stage 5: *System installation, implementation, integration*** with other relevant systems and end to end system testing.
- **Stage 6:** Provision of training to all the relevant groups in the NYOTA Component 2 Program. (users, Technical, administrators, super users and other stakeholders).
- **Stage 7:** Go live, Hand over, and Provision of Maintenance and Support during and after

completion of Stages 1-7 for 24 months.

All documentation to be delivered as part of this Contract must be in English and in soft copy and hard copy in Microsoft Word format.

5.5.2. Acceptance Process as per the deliverables in each stage

It is envisaged that the project will go through the following stages and the deliverables at each stage are as tabulated below:

Stages	Description	Project Deliverables	PROOF
Stage 1	<i>Project planning and conceptual solution definition:</i> Understanding the requirements and developing the Project plan.	Requirements Document and System Design Document	Inception Report And feasibility report
		Full detailed project plan including work plan & Gantt chart	
Stage 2	<i>Detailed analysis and design of the solution:</i> Create user requirements blueprint and design the web-based platform prototype based on the blueprint.	Refined user requirements blueprint and the enterprise integration platform architectural design.	Certificate of Acceptance and Sign Off for Technical Architecture Document, Final Business Requirements Doc, design document and prototype system
		Web-based Integration platform Prototype based on the blueprint.	
Stage 3	<ul style="list-style-type: none"> • <i>Provisioning and delivery of licenses where applicable.</i> • <i>Development/customization and configuration</i> of the platform incorporating the user comments including testing of each module 	Development/customization and configured integration platform	<ul style="list-style-type: none"> • Certificate of Acceptance and Sign Off for the tested system report • Certificate for delivered licenses where applicable
		Test reports for each functionality	

Stages	Description	Project Deliverables	PROOF
Stage 4	<i>Preparation of the required hardware / Cloud host</i> provided by the Agency to ensure smooth implementation of the proposed platform	Hardware / Cloud configuration ready for installation of the proposed platform.	UAT Certificate
Stage 5	<i>System installation, implementation, integration</i> with other relevant systems and end to end system testing	Integrated System installation and implementation with other relevant systems, including.	Certificate of Acceptance and Sign Off for testing reports and end to end functional testing report.
		end to end system testing reports as per requirements below	
		Test report for the integrated system (end to end)	
		User Acceptance Test Cases/Scripts and UAT Plan	
		Approved UAT Report per module	
Stage 6:	Provision of training to all the relevant groups in the Agency (users, Technical, administrators, super users and other stakeholders).	Approved Training Plan	Certificate of Acceptance and Sign Off for training documents and training evaluation report
		Provision of training to all the relevant groups in the Agency (users, technical, administrators, super users and other stakeholders).	
		User and Training Manuals for the System	
		Operational Manuals for all Hardware and Software	
		User Manuals and Training Manuals for the System	
Stage 7	Go live, Hand over, and Provision of Maintenance and Support during and after completion of Stages 1-4 for 2 months. Subsequently, maintenance and support will be renewed on an annual basis subject to satisfactory	Handover plan	Certificate of Acceptance and Sign Off for handover and maintenance documents
		Maintenance and Support plan for a 24-month warranty period. This will be renewed annually subject on satisfactory performance.	

Stages	Description	Project Deliverables	PROOF
	performance as per the SLA		

5.6. Governance and responsibility

The Vendor shall work collaboratively with the NYOTA’s Component 2 project team to design, develop configure and install the system. The team will comprise of:

- (i) Representatives from NYOTA COMPONENT 2 (NYOTA who form various implementation committees/groups
- (ii) Vendor Technical experts

The vendor will be required to provide all competent staff to work on this project including the project manager. The staff will be the ones that the bidder submitted their CVs alongside their roles in their bid document.

5.6.1. Assignment

The Vendor shall not assign this Contract or sub-contract any portion of it to any third party without the Client’s prior written consent.

5.6.2. Staff to Implement the Project

The Vendor shall provide names of staff and their curriculum vitae who will be implementing the project and their competence and areas they will be handling. No change of implementing team shall be made without written consent of the client.

5.6.2.1. Implementation Approach Work Plan and Methodology

The bidder is expected to indicate a detailed project implementation strategy/plan and methodology that will ensure holistic delivery of the system as well as highlight the Work Plan(s) to deliver and commission the system

In this regard, Bidders are required to propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates.

Bidders are required to describe their technical approach and methodology to deliver this assignment, to realize the expected output.

5.6.2.2. Demonstration

The bidder is expected to be able to demonstrate how they will configure features of the proposed platform upon request during evaluation.

5.6.2.3. References

The bidder is expected to give a list of references where the similar solutions has been implemented. The bidder is required to attach the LPO/Contract and completion certificate and reference letter from the client. The Evaluation team may contact these references or pay them

a visit to ascertain level of implementation and customer satisfaction.

5.6.2.4. Hardware: Hardware to support the system

Bidders will be required to give the indicative minimum hardware or cloud specifications required for the optimum operation of the system. Vendor will deliver all the software coupled with the solution that will enable the running of the system

5.6.2.5. Data Conversion and Migration if Any

Bidders are required to create and submit a detailed technical proposal and duration for Data migration and conversion requirements from other systems if any to the new system that contain all the necessary deliverables that the bidder will follow to ensure smooth migration.

5.6.2.6. Intellectual Property

The bidder must not disclose, use or otherwise exploit our Confidential Information for any purpose whatsoever, unless expressly authorised in writing by NYOTA component 2. The bidder will agree to indemnify NYOTA component 2 for any loss or damage we suffer or incur and arising out of your breach of this clause. Hand over Intellectual Property Rights related to the customization to NYOTA Component 2, including all related designs and all relevant further documentation at the end of the contract.

5.7. DETAILED TECHNICAL REQUIREMENTS

All requirements outlined in this section are mandatory and must be met to provide guarantee that the system will meet its envisioned objectives.

The bidders **MUST** fully comply with **ALL** technical specifications.

The requirements are divided into two namely:

1. The mandatory requirements which consist of the general cutting across requirements and some of the module specific requirements. All requirements outlined in this section are mandatory and must be met to provide a reasonable guarantee that the system will meet its envisioned objectives. The bidders who qualify in the mandatory technical will be moved to next stage of technical scoring.
2. The detailed module specific requirements which will be scored.

5.7.1. Mandatory General/ Common Features Functional Requirements

The system that is proposed in response to these terms of reference should meet all the general mandatory technical requirements presented in this section. Bidders are required to give item by item response to each item, providing page reference against each requirement. The bidders who qualify in the mandatory technical will be scored on the rest of the specifications.

5.7.1.1. Architect technical requirements

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
1.	Technology	<ul style="list-style-type: none"> • The system should be developed in the upto date technology and must have capability of running in several operating systems and devices without distortion of information and user interface. • The system should be user friendly, menu driven with extensive online help facilities. • The system should have an extensive use of parameters and tables to ensure that the system is flexible to enable the Agency accommodate future changes. <p>The bidder must define the technology platform(s) to be used to fully deliver their proposed platform. This should include: -</p> <ul style="list-style-type: none"> • The proposed components of the system (Names and versions) • The application development environment. • The database proposed. • Operating system proposed. • Client or end-user operating systems supported • Open-endedness of the platform to allow integration with other upcoming systems • Describe the programming language/technology of the system. • Supply and installation/setup of the appropriate software, licenses and kits; <ul style="list-style-type: none"> • Bidder to describe the following architectures that will be embraced by the proposed platform • system architecture. • Information architecture • Infrastructure architecture • Database architecture 		
2.	Functional Interface	<ul style="list-style-type: none"> • The platform must be accessible in all the web browsers i.e Microsoft Edge, Internet Explorer, Opera, Google Chrome, Firefox etc • Have a Graphical User-friendly interface that is web-based • Simple and Intuitive navigation between functions such as dropdown menu-driven options for common/known data fields. • Automatic population of known fields to reduce data re-entry • Ability to print any information displayed on a screen. • Automated Data validation and error checking facility. • The ability for the system to set up various parameters that are user-specific (data classifications, formulas). • Be based on a service-oriented architecture and on web technology standards, interoperability with open standards. • Ability to allow for remote access to the System through a standard web browser, mobile. 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> The ability for the system to grant access to users through a single sign-on/log-on facility. The system should interface with other applications. Allow multitasking in different windows 		
3.	Scalability and Performance	<ul style="list-style-type: none"> One of the fundamental requirements of solution architecture to be provided by the vendor is its ability to scale up as and when new applications and services are added and transaction volumes increase without compromising the performance of the overall solution. It should provide for Scale-Up and Scale out on the platform, Web Servers, Database Servers, Application Integration Servers, Business Intelligence (BI) and all other solution components. 		
		<ul style="list-style-type: none"> The system must be adaptable and scalable with changing technology 		
4.	Availability	<ul style="list-style-type: none"> Solution should be designed to remove all single points of failure. The solution should provide the ability to recover from failures, thus protecting against many multiple component failures. 		
5.	Manageability	<ul style="list-style-type: none"> All the components of the system must be managed from a remote management station. Shall provide custom reporting of current and historical system performance parameters. Performance parameters to be tracked include resource utilization (CPU, Memory, Hard Disk, I/O, and Processes), uptime, throughput, device alerts/failure etc. 		
6.	Architecture	<ul style="list-style-type: none"> The system should support a multi-tier architecture with each tier fully independent. It should have the ability to integrate with Active Directory (for authentication) and e-mail system and also provide a flexible API for system integration and application development. 		
		<ul style="list-style-type: none"> The system should provide a modular facility to customize the document management interface to meet specific functional requirements 		
7.	Security	<ul style="list-style-type: none"> The ability for the system to grant access to users through a single sign-on/log-on facility. Login, password and user settings are limited to administrator role and define password strength and alerts to change password for a defined period 		
		<ul style="list-style-type: none"> Different confidentiality settings for groups and individuals to be managed by the administrator. Modern threat protection, customizable content controls and an intuitive web-based console Configure Violations to warn users, block the files from being posted and/or replace the files with custom text. Two factor Authentication of users Where there is high level approval, such to be limited to defined devices only. The system must support extensive audit trails at folder/aggregation of records level to the lowest object level for each action done by a particular user by stamping the user 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> name, date and time. • The system should ensure that the audit trails remain unalterable and this function should be fully handed over to the Agency. 		
		<ul style="list-style-type: none"> • Provide system's security driven by roles, so as to reduce the number of security profiles that need to be maintained? • The system should have adequate data entry security controls, validation, check digit, etc. • Definable password security permission with read, update, add, delete and post. • Separation of business application system access and administration from that of Database Administration and Operating System access and administration. • Audit trail on Users, functions accessed with details of transactions should be posted to a secure log file both within the system and an offsite location that is only accessed by a designated staff. • Maintain Disk Storage of Audit Trail Log file (log password reinstructed) • The system should be modular allowing phased implementation of additional modules. 		
	User Authentication	<ul style="list-style-type: none"> • Each user must be authenticated with a unique user-id / username and password on the application. The User IDs / Usernames should be case sensitive. 		
		<ul style="list-style-type: none"> • All user accounts must be managed with reference to and in synchronization with an authoritative central user management system e.g. identifying personal numbers in Agency 's active staff database (Active Directory, Central HR database or the ERP etc.) for internal Agency users NB: User accounts management activities include but not limited to new user creation, user maintenance, and user authentication (during login). 		
		<ul style="list-style-type: none"> • All new user accounts must have a system-generated random password when created. A secure way of communicating the initial password to the user should be utilized, e.g. via an e-mail account. 		
		<ul style="list-style-type: none"> • The system must prompt users to change their passwords the first time they log on to the application. 		
		<ul style="list-style-type: none"> • The system must support password expiry features with a configurable frequency. This should be parameterized to allow flexibility in adjusting this value as required. 		
		<ul style="list-style-type: none"> • The system should not support automatic logins to guard against brute force attacks. The login page should include a challenge which the user responds to before proceeding with the login. 		
		<ul style="list-style-type: none"> • The system must implement the following Password Strength Controls: 		
		<ul style="list-style-type: none"> • Passwords should have a configurable minimum and maximum lengths 		
		<ul style="list-style-type: none"> • Password must meet a configurable combination of the following 4 complexity rules: 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> i. at least 1 uppercase character (A-Z) ii. at least 1 lowercase character (a-z) iii. at least 1 digit (0-9) iv. at least 1 special character (punctuation) 		
		<ul style="list-style-type: none"> • These password features should be configurable to support future complexity requirements 		
		<ul style="list-style-type: none"> • During password change, if the new password doesn't comply with the complexity policy, the error message should describe every complexity rule that the new password does not comply with 		
		<ul style="list-style-type: none"> • The solution should implement a secure self-service password recovery mechanism in the event the user forgot their password 		
		<ul style="list-style-type: none"> • Any password reset/recovery mechanism option must not reveal whether or not an account is valid, preventing username harvesting 		
		<ul style="list-style-type: none"> • The login page and all subsequent authenticated pages must be exclusively accessed over TLS. All active sessions must be encrypted 		
		<ul style="list-style-type: none"> • The solution should support expiring of newly created accounts if not used for a configurable period of time. This should be parameterized to allow flexibility in adjusting this value as required 		
		<ul style="list-style-type: none"> • The solution must support a password change notification and a configurable number of grace logins. The password must be changed after a configurable duration. This should be parameterized for flexibility 		
		<ul style="list-style-type: none"> • The solution must support password lock out after a configurable number of unsuccessful login attempts. This should be parameterized to allow flexibility in adjusting this value as required 		
		<ul style="list-style-type: none"> • The solution should respond with a generic error message regardless of whether the user ID or password was incorrect. It should also give no indication to the status of an existing account. The generic message should not reveal which of the authentication parameters is invalid 		
		<ul style="list-style-type: none"> • The solution must expire a user account after the session has been idle for a configurable period of time. This should be parameterized to allow flexibility in adjusting this value as required 		
		<ul style="list-style-type: none"> • The solution should support re-authentication for sensitive features e.g. before updating sensitive account information such as the user's password, user's email, or before performing sensitive transactions. The function(s) requiring re-authentication should be configurable/determined 		
		<ul style="list-style-type: none"> • The solution must not allow the re-use of a past password until a set period of time and a set number of password changes have been made. This should be parameterized to allow flexibility in adjusting this value as required 		
		<ul style="list-style-type: none"> • High level approval e.g. the Final approval for payment 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		and any other such approvals as shall be defined from time to time, to be confined to specific devices.		
	Security plan	<ul style="list-style-type: none"> • Bidders are required to submit a comprehensive security plan taking into account physical security, network security, user, application and database-level security for the system platform • User Authentication • Logging & Auditing • Session Management • Session Expiration: etc 		
8.	Confidentiality	<ul style="list-style-type: none"> • The system must ensure that data are accessible only to those authorized to have access. • Access to the server resources must be protected and authorized by the system to prescribed Actors/Roles as documented. • All user account management functions must require re-authentication even if the user has a valid session id. Session should expire in 5 minutes after request is idle. This time shall be configurable. • Time of changes to data must be recorded to the nearest second Accountability. The system must maintain complete, secure records of actions that affect security. Such action includes introducing new user to the system, assigning or changing the security level of a subject or an object and denying access attempts. 		
9.	System integration	<ul style="list-style-type: none"> • Seamlessly Integration with all existing digitized systems for all relevant organizations and allow for future integration too. • The solution/interface needs to be integrated with SharePoint Libraries, Access Control and other • Should support both Synchronous and Asynchronous communication (information exchange) with the backend business applications • The integration should enable Administrators to easily surface documents in the system, allowing them to: <ul style="list-style-type: none"> • Link to one or more individual documents selected from the system • Create lists of documents based on specific selection criteria: e.g. library, folder or metadata • Insert links to individual documents inside rich text areas • Easily give access to documents in other systems by selecting libraries, for folders or individual files. 		
10.	Workflow	<ul style="list-style-type: none"> • The bidder is to automate all the processes defined for the generation of appropriate reports, data analysis etc as per the requests • Develop workflow for each of the processes and allow for proper management of the same. The workflow should be accessible anywhere in the world. 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> • The system should support authorized users to forward data for approval in a predefined and flexible route. Users in the workflow should be able to access the work items in their inbox and process them accordingly. These inboxes shall have the facility to categorize overdue work, pending work, all my work, Work Assigned to Me, by filtering using the user login ID • The System should provide a form generating tool which can be used to design a data entry form to feed into the database so that stakeholders who don't have a digitized system can open, fill and update the database. • Creation of different action codes (attributions) for different tasks with different automatic alerts e.g. e-mail, Short Message Service etc. or notification for pending work to officers • Allow for drill down of data and give a Clear overview in one window of all attributions to a person or to a department or item • search for persons/departments and their records, closed, open and overdue payments from the aggregated data from all the integrated systems. • The Workflow solution shall support dynamic rights allocation on objects after receiving the work item. The rights should be enabled / disabled automatically as the work is routed in the defined path. • The system should support time and event based reminders and automatic escalations to relevant user after specified time intervals pending work items, completed items, items pending with specific users etc. • The system should provide a facility for assigning tasks and deadlines for users in a work flow. • The system should provide for the change of deadlines based on requests • Workflow configuration utility should be defined to seamlessly move data from one module to the next (end to end configuration) 		
11.	Documentations	<ul style="list-style-type: none"> • Provide technical documentation detailing how the system has been setup and how the various features will be utilized • Create backup and disaster recovery plan • Create documents and guides for day-to-day use of the system by end users • On-going support, user management and system administration 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> • On-going maintenance of the entire platform and related applications • Core Integration architecture • A comprehensive workplan showing the scheduling of project tasks and resource allocation. 		
12.	Notification	<ul style="list-style-type: none"> • The system should have a capability sending notifications to the relevant user/stakeholder. • The system must be configured to send system functionality and availability alerts to the administrator and should self healing feature incase of an error, and enable Error logging 		
13.	Business continuity:	<ul style="list-style-type: none"> • Scheduled backup and real-time replication • Have multi-user capability: with many users logging in at the same time -concurrent users • The system be accessible over LAN,VLAN and WAN using client server. • Run on Relational Database Management System such as MS SQL • Provide Detailed Operational and Maintenance Manuals and On-line Reference Manual. • Training Operators on daily operations of the system. • Training IT staff on management and user support of the software. • Built in Backup Function and File Recovery Utilities. Provide back-up/recovery and restart procedures and programs as well as an active audit trail for continuity of operations • The application will have a centralized database to be accessed by all authorized users. • The application will be expected to have the ability to archive data designated as dormant to different data files. • The system must have process workflows, triggers and escalation for report generation of analysed data • The System must have the capability of performing incremental backups without system downtime. • Transaction Rollback After Crash, System Integrity Check for file and data corruption. • Ability to scale in database size to store data for 5 years. 		
14.	Reports	<ul style="list-style-type: none"> • Ability to handle versatile reporting queries from staff. • Have an adhoc report writer/report generating tool that will enable the agency to design and tailor reports to meet specific reporting requirements. Generate standard/Static and customized reports with the provision for a drill-down capability. • The system should allow the reports to be exported to PDF, DOCX, CSV, Excel or any other file format required by the user. • Ability to email reports directly. 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> • The system must provide comprehensive reporting facilities including: <ul style="list-style-type: none"> ○ parameter-driven standard reports available from menus ○ An ad hoc query reports ○ The ability to integrate with a data warehouse. 		
		<ul style="list-style-type: none"> • The system must provide the facility to allow authorized users to download information in various formats 		
		<ul style="list-style-type: none"> • The system must provide an online help facility to the users 		
		<ul style="list-style-type: none"> • The stakeholders will request online for reports and analysis documents. The requested reports will be allocated to internal users to undertake the generation and submit to the relevant office to release. Ability to process batched report requests without operators intervention 		
		<ul style="list-style-type: none"> • Ability to retain archived history transactions online for a specified period of time without affecting system processing capacity 		
		<ul style="list-style-type: none"> • Ability to develop custom menus and reports and assign to users to minimize and prohibit direct access to database records 		
		<ul style="list-style-type: none"> • The system should provide various dashboards on related information for different users. • The system should allow the users to be able to customize their dashboards depending on the data they need to see. 		
		<ul style="list-style-type: none"> • The system must provide a facility for output/reports to be directed either to a printer, screen or file and have the following fields: Title/description; Page numbering; End of report message; and Default spooling where output size exceeds user-defined limits. Item No, General Report features etc 		
		<ul style="list-style-type: none"> • Ability to handle versatile reporting queries from staff. • Automatically refresh when the underlying data is changed. • Ability to configure the layout of standard reports. • Ability to transform existing data in a report into a chart or graph. • Ability to predefine the generation of automatic reports for example weekly, bi-weekly, monthly, quarterly, annually. 		

Item No.	Item	technical requirements	Bidder's Response	Page Reference in the tender document
		<ul style="list-style-type: none"> The bidder shall demonstrate that the platform has tools that provide easy to use wizards that will enable users to create customized reports. Users who perform this function will have to be trained on the use of the tools. 		

5.7.1.2. Training and Skills/Technology Transfer

As part of the implementation process, it is the hope of Agency that its implementation personnel can gain significant expertise in both the technology used by the application as well as the inner workings of the application itself. It is our requirement that you ensure that the team is familiar with all aspects of your application. Capacity building is necessary to build competence and to institutionalize the usage of the platform within the Agency.

Item No	Features	Minimum Requirements	Bidder's Response	Reference Pages in brochure /document
1.	Technical Skills Assessment	The bidder is expected to explicitly state the technical skills of its staff required to successfully implement and sustain the System. Attach CVs and certificate copies		
2.	Methods of Training and Skill Transfer	The bidder is expected to elaborate on their proposed training methods to be used for skills transfer which will ensure that NYOTA COMPONENT 2 has enough internal capacity to maintain and use the System.		
3.	Admin/Technical Training	The bidder is expected to provide the training curriculum to be used to train at least two technical users.		
4.	Training facility	All trainings must be provided at an accredited center. Bidders shall propose training site and location and this shall be in agreement with the purchaser.		
5.	Training materials	<p>(i) The Vendor shall develop training materials illustrated in English with screen shots of all user interfaces of the application. extensions at no cost to the client.</p> <p>(ii) The Vendor must ensure that a detailed User Guide is provided with the system.</p> <p>(iii) The Vendor will be required to provide a “Quick reference guide within the system. The objective is to provide a structured, user-friendly,</p>		

		means to help a user perform a task.		
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5.7.1.3. Testing plan

The Vendor should describe in details in their proposal the testing environment and methodology to be used prior to handing over the system for client user acceptance testing (UAT). The Client expects the following test cycle to include:

Item No	Features	Minimum Requirements	Bidder's Response	Reference Pages in brochure /document
System Testing				
	General	<ul style="list-style-type: none"> • Create test cases and test data. • Manage the test environments and associated test data from an applications perspective. • Ensure that all testing activities conform to the requirements of defined Change Control procedures. • Perform unit and system testing and document results. • Perform integration, stress, and regression testing and document results. • Perform data migration and data conversion tests if any. • Review and approve results of all testing activities. • Develop and conduct user acceptance, quality assurance (QA) testing and document results. • Assist in conducting and documenting user acceptance and QA testing. • Review testing results to identify variances between documented requirements and provided functionality and usability. • Review testing results for compliance with policies, procedures, plans and metrics (e.g. defect rates, progress against schedule, etc.). • Correct defects identified during the testing efforts. 		

		<ul style="list-style-type: none"> • Prepare application(s)/module(s) for go live into production environment. 		
	Unit Testing:	The vendor will carry out the unit testing in house to make sure each component and module of the system functions as designed.		
	Integration Testing:	After all modules of the system are developed, integration testing is carried out to make sure that all modules function and perform as expected when working in combination.		
	Load testing:	Since the application will be used by a large number of users in future, load testing will be performed to see how the system performs under heavy loads. This may require fine tuning the web server, application, application server, and/or the database server or network configuration and load balancing.		
	Recovery Testing:	One of the important aspects of an application is how well it can recover in case of a system failure, server shutdown, or service failure. Tests will be carried out to see how well the system recovers from crashes and hardware failures.		
	Security Testing	it is necessary to perform detailed security testing of the system. This involves a complete penetration test to make sure the application and the server is not vulnerable to any type of attacks such as SQL injection attack, XSS attacks etc. This will be done by using threat detection and vulnerability scanner software		
UAT testing approach				
	Usability Testing	The client will test the navigation between screens, user-friendliness and workflows of each of the screens. Against this, if deficiencies are identified the interface maybe redesigned during this testing Stage based on feedback from the Client.		
	Functional Testing:	A complete end to end functional testing cycle will run. During the functional test, actual processes, and all key services		

		provided by system will be tested against the business requirement, (end to end) to see if the system meets the requirements as described in the in the RFP document and stores data and generate reports properly.		
	Acceptance Testing	An end to end functional and quality of service (including security, performance and robustness) will be complete by NYOTA COMPONENT 2 to any system sign off.		
	UAT Test Script	An end to end functional and quality of service (including security, performance and robustness) will be complete by NYOTA COMPONENT 2 prior to any system sign off.		

5.7.1.4. Service Level Agreement (SLA) Requirements.

The objective of the Service Level and Support requirements is to ensure that the system implemented is adequately supported and that the system maintains the acceptable uptime levels.

Item No	Features	Bidder's Response	Reference Pages in brochure /document
1.	The bidder MUST guarantee free support for the proposed system for the duration of contract.		
2.	The bidder should furnish a maintenance schedule for the platform supplied.		
3.	The bidders shall propose a service level agreement that addresses the following: <ul style="list-style-type: none"> • Escalation matrix • Contact persons • Response time (2 hours) • Proof of local presence • Online support from manufacturer. • Any other related SLA requirements 		

5.7.1.5. Support and Maintenance requirements

After completion of the project, continuing support and maintenance activities will be required from the Bidder for a period of time where the platform will be on warranty and with continued support and maintenance. This would also include on-site support, hence the bidder must demonstrate availability of local support.

Bidders are required to provide a clause-by-clause response to the specifications in the given format. All bidders are expected to demonstrate and give detailed information on how their proposed system meets the requirements identified below:

Item No.	Features	Minimum Requirements	Bidder's Response	Reference Pages in brochure /document
	System Licensing	The bidder is expected to: Indicate the period of warranty (not less than 24 months)		

Item No.	Features	Minimum Requirements	Bidder's Response	Reference Pages in brochure /document
		<ul style="list-style-type: none"> Grant to the agency license to access and use the Software, including all inventions, designs, and marks embodied in the platform. 		
		<ul style="list-style-type: none"> Bidder must provide a price quotation for end to end solution that meets all the requirements. The quote shall include all the software that will run the platform e.g operating systems, application, databases, middleware etc 		
		<ul style="list-style-type: none"> The nature of the System is such a way as to permit access, from other computers connected to the primary and/or backup Sites by means of a local or wide-area network or similar arrangement, and used on or copied for use on those other computers to the extent necessary to that access; 		
		The Bidder will not include configuration in platform that restricts and/or limits access to certain features, functionality or capacity of such Software subject to the Purchaser making payments or for other self-help or retaliatory		
		<p>Ability to allow remote diagnostic support.</p> <p>Ability to detect on-line violations and maintain a history of security profiles and other system areas</p> <ul style="list-style-type: none"> Ability to provide on-line time/date control on access 		

5.7.1.6. Technology Platforms

Item No	Feature	Minimum Requirements	Bidder's Response	Reference Pages in
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				brochure /document
4.	Platform	<p>Bidders shall give a detailed response to demonstrate how their proposed platform will meet the functional requirements mentioned in all the sections in this tender document. The requirements shown in Bidder response should, therefore, provide exhaustive details on the features of their proposed platform, in such a way as to ensure that the proposed platform leverages on the power of the platform to integrate administrative functions in line with modern best practices.</p> <p>The bidder must define the technology platform(s) to be used to fully deliver their proposed solution.</p> <p>The bidder must attach the product brochure.</p>		
5.	Components	<ul style="list-style-type: none"> • The bidder shall state the proposed components of the platform in terms of: <ul style="list-style-type: none"> • Names and versions • The Integration engine. • The database proposed. • Operating system proposed. • The proposed modules and complete features • Client or end-user operating systems supported • The system must be scalable to accommodate growth in the user base as well as data analysis transactions. Comment on how this can be realized. • Elaborate on the open-endedness of the system to allow integration with other systems within NYOTA COMPONENT 2 and Government • Describe the programming language/technology of the system. • Setup of necessary IT security measures for the system; • The system must be highly available with an uptime of at least 99.9% availability. • 		
6.	System Management Annual Charges	Any charges such as annual maintenance, annual license fee and software support cost should be clearly stated. The privileges that will be experienced by subscribing to such annual charges should be clearly stated.		
7.	Estimated Implementation Schedule	The Agency envisages that the entire implementation duration shall be a maximum of 6 weeks and bidders are encouraged to propose a		

		<p>lesser duration as may be practically possible to meet the desired objectives.</p> <p>NB This implementation period does not include the warranty period of 6 months which commences after commissioning of the platform.</p> <p>Provide a detailed implementation schedule detailing the number of your staff required for timely project delivery, the number of NYOTA component 2 staff required to facilitate timely project delivery, and services and material that is critical for the successful project implementation. Highlight the critical milestones that are expected during project implementation with the approach to be taken for a successful timely project implementation.</p> <p>Note: NYOTA component 2 intends to have the project implemented within a six week period.</p>		
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5.7.2. Module based Detailed Technical specification

For each specification, bidders are requested to provide a clear and concise explanation and provide across-reference to where that explanation or supporting information can be found in brochure describing the solution. Bidders are required to provide a system brochure that points out the functionalities that have been outlined in this tender document. The requirements here below will be scored as per the allocated points.

5.7.2.1. EAT Module based Detailed Technical specification

EAT MANAGEMENT

DIGITAL EAT PROCESSES

No.	Online System Requirements	Bidders Response	Reference Page in the Document
Summary			
	<ol style="list-style-type: none"> 1. User Management 2. Exam Creation and Management 3. Exam Administration: 4. Exam Delivery: 5. Scoring and Feedback: 6. Reporting and Analytics: 7. Integration: 8. Scalability and Reliability: 9. Compliance and Data Privacy: 		
A.	User Management		
1.	Roles and Permissions: Create and manage multiple user roles such as administrators, users and beneficiaries with specific permissions.		
2.	User Registration and Authentication: Secure registration and login mechanisms with support for single sign-on (SSO) and multi-factor authentication (MFA).		
3.	Update and manage beneficiary profile within specified permissions.		
B.	Exam Management		
4.	Question Types: Support various question types, including multiple-choice, true/false, short answer, essay, and interactive questions (e.g., drag-and-drop).		
5.	Question Bank: Create and manage a question bank with categorization, tagging, and metadata for easy retrieval and reuse.		
6.	Exam Templates: Provide customizable exam templates to streamline exam creation.		
7.	Randomization: Implement question and answer randomization to minimize cheating.		
C.	Exam Administration:		
8.	Scheduling: Flexible scheduling options, including start/end times, time limits, and availability windows.		
9.	Accessibility: Ensure the platform is accessible to users with disabilities, complying with standards such as WCAG (Web Content Accessibility Guidelines).		

No.	Online System Requirements	Bidders Response	Reference Page in the Document
D.	Exam Delivery:		
10.	User Interface: Intuitive and responsive interface compatible with various devices (desktops, tablets, smartphones).		
11.	Offline Mode: Allow for offline exam attempts with automatic synchronization once the connection is restored.		
12.	Security: Implement robust security measures to prevent cheating, including browser lockdown, IP restrictions, and encrypted communication.		
13.	USSD-based capability as an alternative to web version.		
D.	Scoring and Feedback:		
14.	Automated Scoring: Immediate scoring for objective questions with configurable grading schemes.		
15.	Intelligent Algorithm: Use variable inputs to determine pass mark per county so to ensure that only the required number of applicants are selected and an appropriate number are put in the waiting list.		
D.	Reporting and Analytics:		
16.	Performance Reports: Generate detailed performance reports for beneficiaries and administrators.		
17.	Analytics: Provide insights into exam performance, question difficulty, and overall trends.		
18.	Data Export: Support exporting data in various formats (e.g., CSV, PDF) for external analysis.		
E.	Integration:		
19.	MIS Integration: Seamless integration with Management Information Systems.		
20.	API: Provide APIs for integration with other systems.		
F.	Scalability and Reliability:		
21.	Infrastructure: Leverage various infrastructure to ensure scalability and high availability.		
22.	Load Balancing: Implement load balancing to handle high traffic during peak exam periods.		
23.	Backup and Recovery: Regular data backups and a robust disaster recovery plan.		
G.	Compliance and Data Privacy:		
24.	Regulatory Compliance: Ensure compliance with relevant regulations (e.g., DPA).		
25.	Data Privacy: Implement strong data privacy measures to protect user information.		

**PART 3 - CONDITIONS OF CONTRACT
AND CONTRACT FORMS**

PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VI - GENERAL CONDITIONS OF CONTRACT

1. Definitions

In the Conditions of Contract (“these Conditions”), which include Special Conditions, Parts A and B, and these General Conditions, the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

- a) “Contract” means the Contract Agreement entered into between the Procuring Entity and the Service provider, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- b) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- c) “Contract Price” means the price payable to the Service provider as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- d) “Day” means calendar day.
- e) “Completion” means the fulfilment of the Related Services by the Service provider in accordance with the terms and conditions set forth in the Contract.
- f) “GCC” means the General Conditions of Contract.
- g) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Service provider is required to supply to the Procuring Entity under the Contract.
- h) “Procuring Entity” means the Procuring Entity purchasing the Goods and Related Services, as **specified in the SCC**.
- i) “Related Services” means the services incidental to the supply of the goods, such as insurance, delivery, installation, commissioning, training and initial maintenance and other such obligations of the Service provider under the Contract.
- j) “SCC” means the Special Conditions of Contract.
- k) “Subcontractor” means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Service provider.

- l) "Service provider" means the person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.
- m) "**Base Date**" means a date 30 day prior to the submission of tenders.
- n) "**Laws**" means all national legislation, statutes, ordinances, and regulations and by-laws of any legally constituted public authority.
- o) "**Letter of Acceptance**" means the letter of formal acceptance, signed by the contractor. Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.
- p) "**Procuring Entity**" means the Entity named in the Special Conditions of Contract.

2. Interpretation

- 21. If the context so requires it, singular means plural and vice versa.
- 22. Incoterms
 - a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms **specified in the SCC**.
 - b) The terms EXW and CIP and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

3. Contract Documents

Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole. The documents forming the Contract shall be interpreted in the following order of priority:

- a) the Contract Agreement,
- b) the Letter of Acceptance,
- c) the General Conditions of Contract
- d) Special Conditions of Contract
- e) the Form of Tender,
- f) the Specifications and Schedules of the Drawings (if any), and
- g) the Schedules of Requirements, Price Schedule and any other documents forming part of the Contract.

4. Fraud and Corruption

- 3.1 The Service provider shall comply with anti-corruption laws and guidelines and the prevailing sanctions, policies and procedures as set forth in the Laws of Kenya.
- 3.2 The Service provider shall disclose any commissions, gratuity or fees that may have been paid or are to be paid to agents or any other person with respect to the Tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

4.1 Entire Agreement

- 4.1 The Contract constitutes the entire agreement between the Procuring Entity and the Service provider and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

4.2 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.3 Non-waiver

- a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.4 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

5. Language

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Service provider and the Procuring Entity, shall be written in the **English Language**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate and certified translation of the relevant passages in the **English Language**, in which case, for purposes

of interpretation of the Contract, the English language is translation shall govern.

- 5.2 The Service provider shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Service provider.

6. Joint Venture, Consortium or Association

- 6.1 If the Service provider is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity for the fulfilment of the provisions of the Contract and shall designate one member of the joint venture, consortium, or association to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior written consent of the Procuring Entity.

7. Eligibility

- 7.1 The Service provider and its Subcontractors shall have the nationality of an eligible country. A Service provider or Sub-contractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 7.3 The Tenderer, if a Kenyan firm, must submit with its tender a valid tax compliance certificate from the Kenya Revenue Authority.

8. Notices

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term "in writing" means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

9. Governing Law

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of Kenya.
- 9.2 Throughout the execution of the Contract, the Service provider shall comply with the import of goods and services prohibitions in Kenya:
- a) where, as a matter of law, compliance or official regulations, Kenya prohibits commercial relations with that country or any import of goods from that country or any payments to any country, person, or entity in that country ; or
 - b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity.

10. Settlement of Disputes

- 10.1 The Procuring Entity and the Service provider shall make every effort to resolve amicably by direct negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Service provider may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.
- 10.2 Arbitration proceedings shall be conducted as follows:**
- 1021 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 10.1 shall be finally settled by arbitration.
- 1022 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within thirty days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 1023 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 1024 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any due payments.
- 1025 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for the dispute given in its notice of a claim or dispute.
- 1026 Arbitration may be commenced prior to or after delivery of the goods. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the delivery of goods.
- 1027 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.
- 10.3 Arbitration Proceedings**
- 1031 Arbitration proceedings with national Service providers will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person or persons to be

agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

- i) Kenya National Chamber of Commerce
- ii) Chartered Institute of Arbitrators (Kenya Branch)
- iii) The Law Society of Kenya

1032 The institution written to first by the aggrieved party shall take precedence over all other institutions.

1033 Alternative Arbitration Proceedings

Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

104 Arbitration with Foreign Service providers

1041 Arbitration with foreign Service providers shall be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules.

1042 The place of arbitration shall be a location specified in the **SCC**; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].

105 Alternative Arbitration Proceedings

Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

106 Failure to Comply with Arbitrator's Decision

1061 The award of such Arbitrator shall be final and binding upon the parties.

10.6.1 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

107 Contract operations continue

Notwithstanding any reference to arbitration herein,

- a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

b) the Procuring Entity shall pay the Service provider any monies due the Service provider.

11. Inspections and Audit by the Procuring Entity

11.1 The Service provider shall keep, and shall cause its Subcontractors to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time, changes and costs.

11.2 Pursuant to paragraph 2.2 of Instruction to Tenderers, the Service provider shall permit and shall cause its subcontractors to permit, the Procuring Entity and/or persons appointed by the Procuring Entity or by other statutory bodies of the Government to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Procuring Entity. The Service provider's and its Subcontractors' attention is drawn to Sub- Clause 3.1 which provides, inter alia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights constitute a prohibited practice subject to contract termination, as well as to a determination of ineligibility.

12. Scope of Supply

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

13. Delivery and Documents

13.1 Subject to GCC Sub-Clause 33.1, the provision of service and completion of the Related Services shall be in accordance with the TOR's in the Service Requirements.

14. Service provider's Responsibilities

14.1 The Service provider shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.

15. Contract Price

15.1 Prices charged by the Service provider for the service and the Related Services performed under the Contract shall not vary from the prices quoted by the Service provider in its Tender, with the exception of any price adjustments authorized in the SCC.

15.2 Where the contract price is different from the corrected tender price, in order to ensure the Service provider is not paid less or more relative to the contract price (*which would be the tender price*), any partial payment valuation based on rates in the schedule of prices in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: (*corrected tender price - tender price*)/*tender price X 100*.

16. Terms of Payment

- 161 The Service provider shall request for payment by submitting invoice(s), service reports(s) and any other relevant documents as specified in the **SCC** to the Procuring Entity.
- 162 Payments shall be made promptly by the Procuring Entity, but not later than thirty (30) days after submission of an invoice by the Service provider, and after the Procuring Entity has accepted it.
- 163 Where a Procuring Entity rejects the service report and Related Services, in part or wholly, the procuring Entity shall promptly inform the Service provider to collect, replace or rectify as appropriate and give reasons for rejection. The Service provider shall submit a fresh invoice, service report and any other relevant documents as specified in the **SCC**.
- 164 The currencies in which payments shall be made to the Service provider under this Contract shall be those in which the Tender price is expressed.

17. Taxes and Duties

- 17.1 The Service provider shall be entirely responsible for all taxes, duties, license fees, and other such levies incurred to deliver the Goods and Related Services to the Procuring Entity at the final delivery point.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Service provider in Kenya, the Service provider shall inform the Procuring Entity and the Procuring Entity shall use its best efforts to enable the Service provider to benefit from any such tax savings to the maximum allowable extent.

18. Copyright

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring Entity by the Service provider herein shall remain vested in the Service provider, or, if they are furnished to the Procuring Entity directly or through the Service provider by any third party, including Service providers of materials, the copyright in such materials shall remain vested in such third party.

19. Confidential Information

- 20.1 The Procuring Entity and the Service provider shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Service provider may furnish to its Sub-Service provider such documents, data, and other information it receives from the Procuring Entity to the extent required for the Sub Service provider to perform its work under the Contract, in which event the Service provider shall obtain from such Sub Service provider undertaking of confidentiality similar to that imposed on the Service provider under GCC Clause 20.
- 20.2 The Procuring Entity shall not use such documents, data, and other information received from

the Service provider for any purposes unrelated to the contract. Similarly, the Service provider shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the performance of the Contract.

- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:
- a) the Procuring Entity or Service provider need to share with other arms of Government or other bodies participating in the financing of the Contract; such parties shall be disclosed in **the SCC**;
 - b) now or hereafter enters the public domain through no fault of that party;
 - c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

20. Subcontracting

- 21.1 The Service provider shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in the Tender. Such notification, in the original Tender or later shall not relieve the Service provider from any of its obligations, duties, responsibilities, or liability under the Contract.
- 21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

21. Specifications and Standards

21.1 Technical Specifications and Drawings

- a) The service provided under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Service TOR's and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate.
- b) The Service provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.
- c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Procuring Entity and shall be treated in accordance with GCC Clause 33.

22. Insurance

- 24.1 Unless otherwise specified in the **SCC**, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage

incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

23. Transportation and Incidental Services

25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

25.2 The Service provider may be required to provide any or all of the following services, including additional services, if any, specified in **SCC**:

- a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
- b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
- d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Service provider of any warranty obligations under this Contract; and
- e) training of the Procuring Entity's personnel, at the Service provider's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

25.3 Prices charged by the Service provider for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Service provider for similar services

24. Inspections and Tests

26.1 The Service provider shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.

26.2 The inspections and tests may be conducted on the premises of the Service provider or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in Kenya as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Service provider or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

26.3 The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.

26.4 Whenever the Service provider is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Service provider shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to

attend the test and/or inspection.

- 265** The Procuring Entity may require the Service provider to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Service provider's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Service provider's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations soaffected.
- 266** The Service provider shall provide the Procuring Entity with a report of the results of any such test and/or inspection.
- 267** The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Service provider shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub- Clause 26.4.
- 268** The Service provider agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Service provider from any warranties or other obligations under the Contract.

25. Liquidated Damages

- 27.1** Except as provided under GCC Clause 32, if the Service provider fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to GCC Clause 35.

26. Warranty

- 28.1** The Service provider warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2** Subject to GCC Sub-Clause 22.1(b), the Service provider further warrants that the Goods shall be free from defects arising from any act or omission of the Service provider or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country

of final destination.

- 28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 28.4 The Procuring Entity shall give notice to the Service provider stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the Service provider to inspect such defects.
- 28.5 Upon receipt of such notice, the Service provider shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Procuring Entity.
- 28.6 If having been notified, the Service provider fails to remedy the defect within the period specified in the **SCC**, the Procuring Entity may proceed to take within a reasonable period such remedial action as may be necessary, at the Service provider's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Service provider under the Contract.

27. Patent Indemnity

- 29.1 The Service provider shall, subject to the Procuring Entity's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Procuring Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:
- a) the installation of the Goods by the Service provider or the use of the Goods in the country where the Site is located; and
 - b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Service provider, pursuant to the Contract.

- 29.2 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring Entity shall promptly give the Service provider a notice thereof, and the Service provider may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

- 293 If the Service provider fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.
- 294 The Procuring Entity shall, at the Service provider's request, afford all available assistance to the Service provider in conducting such proceedings or claim, and shall be reimbursed by the Service provider for all reasonable expenses incurred in so doing.
- 295 The Procuring Entity shall indemnify and hold harmless the Service provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Service provider may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

28. Limitation of Liability

- 30.1 Except in cases of criminal negligence or willful misconduct,
- a) the Service provider shall not be liable to the Procuring Entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Service provider to pay liquidated damages to the Procuring Entity, and
 - b) the aggregate liability of the Service provider to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Service provider to indemnify the Procuring Entity with respect to patent infringement.

29. Change in Laws and Regulations

- 31.1 Unless otherwise specified in the Contract, if after the date of 30 days prior to date of Tender submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Kenya (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Service provider has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

30. Force Majeure

- 32.1 The Service provider shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or

other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

322 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Service provider that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Service provider. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

323 If a Force Majeure situation arises, the Service provider shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Service provider shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

31. Change Orders and Contract Amendments

331 The Procuring Entity may at any time order the Service provider through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- a) drawings, designs, or specifications, where service to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;
- b) the Related Services to be provided by the Service provider.

332 If any such change causes an increase or decrease in the cost of, or the time required for, the Service provider's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Service provider for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Service provider's receipt of the Procuring Entity's change order.

333 Prices to be charged by the Service provider for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Service provider for similar services.

334 **Value Engineering:** The Service provider may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

- a) the proposed change(s), and a description of the difference to the existing contract requirements;
- b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and

c) a description of any effect(s) of the change on performance/functionality.

335 The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- a) accelerates the delivery period; or
- b) reduces the Contract Price or the life cycle costs to the Procuring Entity; or
- c) improves the quality, efficiency or sustainability of the Goods; or
- d) yields any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

336 If the value engineering proposal is approved by the Procuring Entity and results in:

- a) a reduction of the Contract Price; the amount to be paid to the Service provider shall be the percentage specified **in the SCC** of the reduction in the Contract Price; or
- b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in
(a) to (d) above, the amount to be paid to the Service provider shall be the full increase in the Contract Price.

337 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

32. Extensions of Time

341 If at any time during performance of the Contract, the Service provider or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Service provider shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Service provider's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Service provider's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

342 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Service provider in the performance of its Delivery and Completion obligations shall render the Service provider liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

33. Termination

35.1 Termination for Default

- a) The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Service provider, may terminate the Contract in whole or in part:
 - i) if the Service provider fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC Clause 34;
 - ii) if the Service provider fails to perform any other obligation under the Contract; or
 - iii) if the Service provider, in the judgment of the Procuring Entity has engaged in Fraud

and Corruption, as defined in paragraph 2.2 a of the Appendix to the GCC, in competing for or in executing the Contract.

- b) In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Service provider shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Service provider shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

The Procuring Entity may at any time terminate the Contract by giving notice to the Service provider if the Service provider becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Service provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring Entity

35.2 Termination for Convenience.

- a) The Procuring Entity, by notice sent to the Service provider, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Service provider under the Contract is terminated, and the date upon which such termination becomes effective.
- b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Service provider's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect:
 - i) to have any portion completed and delivered at the Contract terms and prices; and/or
 - ii) to cancel the remainder and pay to the Service provider an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Service provider.

34. Assignment

- 36.1 Neither the Procuring Entity nor the Service provider shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

35. Export Restriction

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Kenya, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Service provider from meeting its obligations under the Contract, shall release the Service provider from the obligation to provide deliveries or services, always provided, however, that the Service provider can demonstrate to the satisfaction of the Procuring Entity that it has completed all formalities in a timely manner, including applying for permits,

authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Procuring Entity's convenience pursuant to Sub-Clause 35.3.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 1.1(h)	The Procuring Entity is: <i>Micro & Small Enterprises Authority</i>
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms. If the meaning of any trade term and the rights and obligations of the parties thereunder shall not be as prescribed by Incoterms, they shall be as prescribed by: <i>[exceptional; refer to other internationally accepted trade terms]</i>
GCC 4.2 (b)	The version edition of Incoterms shall be : NOT APPLICABLE
GCC 8.1	For notices , the Procuring Entity's address shall be: THE CHIEF EXECUTIVE OFFICER MICRO AND SMALL ENTERPRISES AUTHORITY, UTALII HOUSE, UTALII LANE, 10TH FLOOR P.O BOX 48823-00100 NAIROBI
GCC 10.4.2	The place of arbitration shall be NAIROBI KENYA.
GCC 15.1	The prices charged for the Service and the related Services performed SHALL NOT be adjustable in the first year of frame work agreement. If prices are adjustable, the following method shall be used to calculate the price adjustment NOT APPLICABLE
GCC 16.1	Provisions on payment: The method and conditions of payment to be made to the Service provider under thisContract shall be as follows:

	<p>1. Payment shall be made in Kenya shillings upon certified deliveries</p> <p>2. There shall be no advance payment under this contract</p> <p>3. Payment shall be made by MSEA, after submission of an original Invoice, Delivery Note, and supported by a report and certificate of inspection and acceptance issued by MSEA (inspection and acceptance committee) declaring that the service have been rendered as per the contract.</p>
GCC 18.1	A Performance Security of 10% of the contract value <i>SHALL NOT BE required</i>
GCC 18.3	<p>If required, the Performance Security shall be in the form of:</p> <p>The Performance Security Shall Be in Form of A Bank Guarantee And Be From A Financial Institution Recognized By The Central Bank Of Kenya. Performance Security from Insurance Companies Not Allowed.</p>
GCC 18.4	<p>Discharge of the Performance Security shall take place: <i>N/A</i></p> <p>Not later than thirty (30) days following the date of completion of the Service providers obligation under the contract.</p>
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: <i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i> - NOT APPLICABLE
GCC 24.1	<p>The insurance coverage shall be as specified in the Incoterms. <i>NOT APPLICABLE</i></p> <p>If not in accordance with Incoterms, insurance shall be as follows: <i>NOT APPLICABLE</i></p> <p><i>[insert specific insurance provisions agreed upon, including coverage, currency and amount]</i></p>
GCC 25.1	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>NOT APPLICABLE</p>
GCC 25.2	Incidental services to be provided are: NA
GCC 26.1	The inspections and tests shall be: conducted By Inspection and Acceptance Committee/Contract implementation Team.
GCC 26.2	The Inspections and tests shall be conducted at: <i>MSEA</i>
GCC 27.1	The maximum amount of liquidated damages shall be: <i>10%</i>

<p>Terms of Framework Contract</p>	<p>1.FC shall be established for a term of three (3) year from the date of signing the contract. Renewal may be considered based on need, funds availability in the budget and satisfactory performance .</p> <p>2.Quantities of subjects to be ordered (and placed) shall be based on need; and the said quantities shall be adjusted from time to time by Procuring Entity based on need; as and when need arises.</p> <p>3.The Procuring Entity shall increase or decrease the quantity of Service required without any change in the unit prices or other terms and conditions of the Tender and the tendering document.</p> <p>4.testing may be required as part of delivery/inspection and acceptance process</p>
<p>Inspections And Tests</p>	<p>The inspections and tests shall be: conducted By CONTRACT IMPLEMENTATION TEAM/ INSPECTION AND ACCEPTANCE COMMITTEE</p>

SECTION VIII - CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful tenderer after contract award.

FORM No. 1: NOTIFICATION OF INTENTION TO AWARD

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

FORMAT

1. For the attention of Tenderer's Authorized Representative

i) Name:_____ *[insert Authorized Representative's name]*

ii) Address:_____ *[insert Authorized Representative's Address]*

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

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

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

2. Date of transmission:_____ *[email]* on *[date]*_____ (local time)

This Notification is sent by_____ (Name and designation) _____

3. Notification of Intention to Award

i) Employer:_____ *[insert the name of the Employer]*

ii) Project:_____ *[insert name of project]*

iii) Contract title:_____ *[insert the name of the contract]*

iv) Country:_____ *[insert country where ITT is issued]*

v) ITT No:_____ *[insert ITT reference number from Procurement Plan]*

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

4. Request a debriefing in relation to the evaluation of your tender

Submit a Procurement-related Complaint in relation to the decision to award the contract.

a) The successful tenderer

- i) Name of successful Tender_____
- ii) Address of the successful Tender _____
- iii) Contract price of the successful Tender Kenya Shillings_____ (in words _____)

b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

S/No.	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason Why Not Evaluated
1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

5. How to request a debriefing

- a) DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date](local time)*.
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
 - i) Attention:_____ *[insert full name of person, if applicable]*
 - ii) Title/position:_____ *[insert title/position]*
 - ii) Agency:_____ *[insert name of Employer]*
 - iii) Email address:_____ *[insert email address]*
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Days after the date that the debriefing is provided. If this happens,

we will notify you and confirm the date that the extended Standstill Period will end.

- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6 How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, *[insert date]* (local time).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
 - i) Attention: _____ *[insert full name of person, if applicable]*
 - ii) Title/position: _____ *[insert title/position]*
 - iii) Agency: _____ *[insert name of Employer]*
 - iv) Email address: _____ *[insert email address]*
- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website www.ppra.go.ke or email complaints@ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

- e) There are four essential requirements:
 - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
 - ii) The complaint can only challenge the decision to award the contract.
 - iii) You must submit the complaint within the period stated above.
 - iv) You must include, in your complaint, all of the information required to support your complaint.

7. Standstill Period

- i) **DEADLINE:** The Standstill Period is due to end at midnight on [*insert date*](local time).
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification please do not hesitate to contact us.

On behalf of the Employer:

Signature:_____

Name:_____

Title/position:_____

Telephone:_____

Email:_____

FORM NO. 2 - REQUEST FOR REVIEW

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....**APPLICANT**

AND

.....**RESPONDENT (Procuring Entity)**

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

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
- 2.

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

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative

Review Board on.....day of20.....

SIGNED

Board Secretary

FORM NO. 3 LETTER OF AWARD

[Use letter head paper of the Procuring Entity]

_____ *[Date]*

To: _____ *[name and address of the Service provider]*

Subject: _____ **Notification of Award Contract No.**

This is to notify you that your Tender dated _____ *[insert date]* for execution of the _____ *[insert name of the contract and identification number, as given in the SCC]* for the Accepted Contract Amount of _____ *[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to tenderers hereby accepted by our Agency.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X, Contract Forms, of the Tendering document.

Authorized _____ Signature:

Name _____ and _____ Title _____ of _____ Signatory:

Name _____ of _____ Agency:

Attachment: Contract Agreement

FORM NO. 4 - CONTRACT AGREEMENT

[The successful tenderer shall fill in this form in accordance with the instructions indicated]

THIS AGREEMENT made the _____ *[insert: number]* day of _____ *[insert: month]*, *[insert: year]*. BETWEEN (1) _____ *[insert complete name of Procuring Entity]* and having its principal place of business at *[insert: address of Procuring Entity]* (hereinafter called "Procuring Entity"), of the one part; and (2) _____ *[insert name of Service provider]*, a corporation incorporated under the laws of *[insert: country of Service provider]* and having its principal place of business at _____ *[insert: address of Service provider]* (hereinafter called "the Service provider"), of the other part.

1. WHEREAS the Procuring Entity invited Tenders for certain Goods and ancillary services, viz.,

[insert brief description of Goods and Services] and has accepted a Tender by the Service provider for the supply of those Goods and Services, the Procuring Entity and the Service provider agree as follows:

- i) In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
- ii) The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
 - a) the Letter of Acceptance
 - b) the Letter of Tender
 - c) the Addenda Nos.____(if any)
 - d) Special Conditions of Contract
 - e) General Conditions of Contract
 - f) the Specification (including Schedule of Requirements and Technical Specifications)
 - g) the completed Schedules (including Price Schedules)

- h) any other document listed in GCC as forming part of the Contract
 - iii) In consideration of the payments to be made by the Procuring Entity to the Service provider as specified in this Agreement, the Service provider hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
2. The Procuring Entity hereby covenants to pay the Service provider in consideration of the provision of the Goods and 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.
3. IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Kenya on the day, month and year indicated above.

For and on behalf of the Procuring Entity

Signed: _____ *[insert signature]*

in the capacity of _____ *[insert title or other appropriate designation]* In the

presence of _____ *[insert identification of official witness]* **For and on behalf**

of the Service provider

Signed: _____ *[insert signature of authorized representative(s) of the Service*

provider] in the capacity of _____ *[insert title or other appropriate designation]* in

the presence of _____ *[insert identification of official witness]*

FORM NO. 8 BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

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

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.

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

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

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
1.	Full Name		Directly--- ----- % of shares	Directly.....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes - ----No----	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes ---- No- ---
	National identity card number or Passport number					
	Personal Identification Number (where applicable)		Direct.....	Direct.....		
	Nationality				Indirect.....	
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					

Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)	
Occupation or profession					Indirect.....	
2.	Full Name		Directly--- ----- % of shares	Directly.....% of voting rights	1.Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes - ----No----	1.Exercises significant influence or control over the Company body of the Company (tenderer) Yes ---- No----
	National identity card number or Passport number		Indirectly--- ----- % of shares	Indirectly----- ----% of voting rights	2.Is this right held directly or indirectly?: Direct.....	2.Is this influence or control exercised directly or indirectly?
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential					

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
	address				Indirect.....	Direct.....
	Telephone number					
	Email address					
	Occupation or profession					Indirect.....
3.						
e.						
t.						
c						

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public).

Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

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

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

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

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

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

Bidder Official Stamp