



REPUBLIC OF KENYA

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



## TENDER DOCUMENT

<b>TENDER NUMBER</b>	<b>IEBC/OT/21/033/2021-2022</b>
<b>TENDER DESCRIPTION</b>	<b>SUPPLY AND DELIVERY OF ASSORTED NON-STRATEGIC ELECTION MATERIALS FOR THREE (3) YEAR FRAMEWORK CONTRACT.</b>
<b>PROCUREMENT METHOD</b>	<b>OPEN NATIONAL TENDER METHOD</b>
<b>CONTRACT TYPE</b>	<b>CONTRACT</b>
<b>CONTRACT PERIOD</b>	<b>THREE (3) YEAR</b>
<b>ISSUANCE DATE</b>	<b>18<sup>th</sup> March, 2022</b>
<b>SUBMISSION DATE</b>	<b>29<sup>TH</sup> MARCH, 2022 AT 11:00 AM KENYAN TIME</b>

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## INVITATION TO TENDER

18<sup>th</sup> March, 2022

### **TENDER NO: IEBC/OT/21/033/2021-2022: SUPPLY AND DELIVERY OF ASSORTED NON-STRATEGIC ELECTION MATERIALS FOR THREE (3) YEAR FRAMEWORK CONTRACT**

1. The Independent Electoral and Boundaries Commission (IEBC) invites sealed tenders for the Supply and Delivery of Assorted Non-Strategic Election Materials for Three (3) Year Framework Contract in the following lots,  
  
    Lot 1- **A4 Tamperproof Envelope and A3 Tamperproof Envelope- Open to All**  
    Lot 2 - **IEBC Branded Greenish Reflector Jacket – Open to All**  
    Lot 3 - **Hacksaw Blade – Youth Category**  
    Lot 4 - **Assorted IEBC Rubber Stamps – Women Category**
2. Tendering will be conducted under open National competitive method using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
3. Qualified and interested tenderers may obtain further information from and inspect the tender document at the IEBC Procurement Anniversary Towers Fifth Floor Room No. 525 during normal working hours, Monday to Friday, 8.00a.m. - 1:00 p.m. and 2.00p.m. - 4.30p.m.
4. A complete set of tender documents may be obtained by interested candidates by downloading free of charge from IEBC Website at [www.iebc.or.ke](http://www.iebc.or.ke) or [www.tenders.go.ke](http://www.tenders.go.ke). Tenderers who download the tender documents through the website are advised to register with the Supply Chain Offices or email their contacts through [procurement@iebc.or.ke](mailto:procurement@iebc.or.ke) immediately in order to facilitate any further clarification or addendum.
5. All Tenders must be accompanied by a Tender Security as indicated in the TDS
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 **29<sup>th</sup> March ,2022 AT 11:00 A.M** East African Time. Electronic Tenders will not be permitted.

**The Ag. Chief Executive Officer/Commission Secretary,  
Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, University  
Way, Fifth Floor,  
P O Box 45371-00100,  
Nairobi. Website: [www.iebc.or.ke](http://www.iebc.or.ke)**

8. Tenders will be opened immediately thereafter.
9. Late submission of tenders will be rejected

**Ag. Commission Secretary/CEO**

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## PART 1 - TENDERING PROCEDURES

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## **SECTION I: INSTRUCTIONS TO TENDERERS**

### **A General Provisions**

#### **1. Scope of Tender**

- 11 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.
- 12 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**

- 21 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.
- 22 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.
- 23 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**

- 31 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.
- 32 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.

- 33 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.
- 34 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a) directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
  - b) receives or has received any direct or indirect subsidy from another Tenderer; or
  - c) has the same - 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.
- 35 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.
- 36 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.
- 37 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.
- 38 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](http://www.ppra.go.ke)
- 39 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.
- 3.10 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.
- 3.11 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.
- 3.12 Where the law requires tenderers to be registered with certain authorities in Kenya, such registration requirements shall be defined in the TDS
- 3.13 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](http://www.cak.go.ke).
- 3.14 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.
- 4.5 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**

- 51 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: 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**

- 61 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. If so 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**

71 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the tendering document by issuing addenda.

72 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.

73 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**

81 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**

91 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**

101 The Tender shall comprise the following:

- a) Form of Tender prepared in accordance with ITT11;
- b) Price Schedules: completed in accordance with ITT 11 and ITT 13;
- c) Tender Security or Tender-Securing Declaration, in accordance with ITT 18.1;
- d) Alternative Tender: if permissible, in accordance with ITT12;
- e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT19.3;
- f) Qualifications: documentary evidence in accordance with ITT 16.2 establishing the Tenderer qualifications to perform the Contract if its Tender is accepted;
- g) Tenderer Eligibility: documentary evidence in accordance with ITT16.1 establishing the Tenderer eligibility to tender;
- h) Eligibility of Goods and Related Services: documentary evidence in accordance with ITT 15, establishing the eligibility of the Goods and Related Services to be supplied by the Tenderer;
- i) Conformity: documentary evidence in accordance with ITT15.2 that the Goods and Related Services conform to the tender document; and
- j) any other document required in the TDS.

102 In addition to the requirements under ITT 10.1, 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.
- 132 All items must be listed and priced separately in the PriceSchedules.
- 133 The price to be quoted in the Form of Tender in accordance with ITT10.1 shall be the total price of the Tender, including any discounts offered.
- 134 The Tenderer shall quote any discounts and indicate the methodology for their application in the form of tender. Conditional discounts will be rejected.
- 135 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.
- 136 If specified in ITT 1.1, Tenders are being invited for individual lots (contracts) or for any combination of lots (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 13.4 provided the Tenders for all lots (contracts) 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**

- 14.1 The currency (ies) of the Tender, the currency (ies) of award and the currency (ies) of contract payments shall be the same.
- 14.2 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.
- 14.3 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.
- 15.2 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.
- 15.3 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**

- 161 To establish Tenderer eligibility in accordance with ITT 4, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.
- 162 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 Supplier'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**

- 171 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 21.1). A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 172 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.
- 173 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's option:
- i) cash;
  - ii) a bank guarantee;
  - iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
  - iv) a 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 17.2.
- 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 Security pursuant to ITT 46. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bidder declines to extend tender validity period.
- 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 45; or
    - ii) furnish a Performance Security in accordance with ITT 46.
- 189 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debars 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 ITT 3.1 and ITT 10.2.
- 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 11 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.
- 192 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.
- 193 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 initialled by the person signing the Tender.
- 194 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 11; 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, 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 noteto 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.

- 212 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 7, 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**

- 221 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**

- 231 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 ITT 19.3, (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.

- 233 Tenders requested to be withdrawn in accordance with ITT 23.1 shall be returned unopened to the Tenderers.

- 234 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**

- 241 Except as in the cases specified in ITT 23, 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 22.1).
- 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**

- 251 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.
- 252 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.
- 253 Notwithstanding ITT 25.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

### **26 Clarification of Tenders**

- 261 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 30.

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 ITT28.2.

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

- a) if accepted, would:
  - i) affect in any substantial way the scope, quality, or performance of the 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 accordance with ITT 15 and ITT 16, 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 nonmaterial 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.

29.3 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.

30.2 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.

32.3 A margin of preference shall not be allowed unless it is specified so in the TDS.

32.4 Contracts procured on basis of international competitive tendering shall not be subject to reservations to specific groups as provided in ITT 32.5.

32.5 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**

33.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the 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 Items or Lots (contracts), as specified in the TDS; and the Tender Price as quoted in accordance with ITT 14. To evaluate a Tender, the Procuring Entity shall consider the following:
- a) price adjustment due to unconditional discounts offered in accordance with ITT 13.4; converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 31;
  - b) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 29.3; and
  - c) 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 Where the tender involves multiple lots or contracts, the tenderer will be allowed to tender for one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT 33.2. The methodology to determine the lowest evaluated tenderer or tenderers based one lot (contract) or based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.
- 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;
- 336 The Procuring Entity's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT 14. 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.

- 353 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**

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.

- 36.4 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.

- 36.5 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, pursuant to ITT 15 and 16. 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**

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. 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;

### **42. Standstill Period**

421 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.

422 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.

### **43. Debriefing by the Procuring Entity**

431 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.

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

#### **44 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.

#### **45 Signing of Contract**

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.

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

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

#### **46 Performance Security**

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.

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.

Performance security shall not be required for a contract, if so specified in the TDS.

#### **47 Publication of Procurement Contract**

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; names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening;

#### **48 Procurement Related Complaint**

The procedures for making a Procurement-related Complaint are as specified in the



## 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	A. General
ITT I.1	<p>Tender reference no: <b>TENDER NO: IEBC/OT/21/033/2021-2022</b></p> <p>Procuring Entity: <b>The Independent Electoral and Boundaries Commission (IEBC)</b></p> <p>Name of The Contract: <b>SUPPLY AND DELIVERY OF ASSORTED NON-STRATEGIC ELECTION MATERIALS FOR THREE (3) YEAR FRAMEWORK CONTRACT</b> in the following Lots:</p> <p>Lot 1 - <b>A4 Tamperproof Envelope and A3 Tamperproof Envelope- Open to All</b></p> <p>Lot 2 - <b>IEBC Branded Greenish Reflector Jacket – Open to All</b></p> <p>Lot 3 - <b>Hacksaw Blade – Youth Category</b></p> <p>Lot 4 - <b>Assorted IEBC Rubber Stamps – Women Category</b></p> <ol style="list-style-type: none"> <li>a. Registration Officer”</li> <li>b. IEBC</li> <li>c. Returning Officer</li> <li>d. County Returning Officer</li> <li>e. Presiding Officer</li> <li>f. IEBC Rejected</li> <li>g. IEBC Rejection Objected to</li> <li>h. IEBC Disputed</li> <li>i. IEBC Spoilt</li> </ol>
ITT I.2 (a)	<p>Electronic Procurement System shall be used as per the instructions below: -</p> <p>Bidders are encouraged to download the tender documents from the IEBC website <a href="http://www.iebc.or.ke">www.iebc.or.ke</a> free of charge or from the Public Procurement Information Portal <a href="http://www.tenders.go.ke">www.tenders.go.ke</a> . The firms that download the document must arrange to forward their particulars/contacts to the Independent Electoral and Boundaries Commission (IEBC), through email address <a href="mailto:procurement@iebc.or.ke">procurement@iebc.or.ke</a> before the closing date for records and for the purposes of receiving clarifications and/or addendums, if any.</p>
ITT 2.3	The information made available on competing firms is as follows:-- <b>NONE</b>
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: <b>NONE</b>
ITT 3.7	<p>A list of debarred firms and individuals is available on the PPRA’s website:</p> <p><a href="http://www.ppra.go.ke">www.ppra.go.ke</a></p>
ITT 3.11	Tenderers shall be required to be registered with : <b>The relevant bodies where applicable.</b>
<b>B. Contents of Tendering Document</b>	

ITT 6.1	Interested candidates may download the tender document from the IEBC website: <a href="http://www.iebc.or.ke">www.iebc.or.ke</a> or <a href="http://www.tenders.go.ke">www.tenders.go.ke</a> . Tenderers who download the tender documents through the website are advised to register at the Supply Chain Offices or email their contact through <a href="mailto:procurement@iebc.or.ke">procurement@iebc.or.ke</a> before the closing date; to allow records and communication for any tender clarifications and
ITT 6.2	A pre-tender conference will not held
ITT 6.3	The questions to reach the procuring entity not later than Three (3) days to tender closing date.
ITT 6.5	The minutes of the pre-tender meeting shall be published on the website ..... N/A
<b>C. Preparation of Tenders</b>	
ITT 13.5	The prices quoted by the Tenderer “shall not” be subject to adjustment during the performance of the contract
ITT 13.6	Prices quoted for each lot (contract) shall correspond at least to (100%) percentage of the items specified for each lot (contract)  Prices quoted for each lot (contract) shall correspond at least to (100%) percentage of the items specified for this item of lot
ITT 13.8 (a) (iii)	Place of final destination: IEBC National Warehouse Located in Industrial Area Along Likoni Road.
ITT 13.8 (a) (iii)	Final destination (Project site): (insert final destination/project site, if different from named place of final destination). N/A
ITT 13.8 (b) (i)	Named place of destination, in Kenya is... IEBC National Warehouse Located in Industrial Area Along Likoni Road.
ITT 13.8 (b) (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 which is..... IEBC National Warehouse Located in Industrial Area Along Likoni Road.
ITT 13.8 (c) (iv)	The Place of final destination (project site) is... IEBC National Warehouse Located in Industrial Area Along Likoni Road.
ITT 14.2	Foreign currency requirements not allowed.
ITT 15.4	Period of time the goods are expected to be functioning (for the purpose of spare parts) : (2 Years )
ITT 16.2 (a)	Manufacturer’s authorization - “Proof of Manufacturer’s authorization or Partnership) as requested in the evaluation criteria”)
ITT 16.2 (b)	After sales service is: “not required”)
ITT 17.1	Tenders shall remain valid for 210 days or as specified in the Invitation to tender after date of tender opening prescribed by the Commission.

ITT 17.3	<p>(a) The number of days beyond expiry of the initial tender validity period will be 0 days.</p> <p>(b) The tender price shall be adjusted by the following percentages of the tender price:</p> <p>(i) By ....% of the local currency portion of the Contract Price adjusted to reflect local inflation during the period of extension –N/A , and</p> <p>(ii) By ....% of the foreign currency portion of the Contract Price adjusted to reflect local inflation during the period of extension – N/A</p>
ITT 18.1	<p>Original Tender Security equivalent to Kshs. 50,000.00 valid for 180 days from date of opening the tender in form of either the following: -</p> <ol style="list-style-type: none"> <li>Cash</li> <li>A bank guarantee;</li> <li>A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or</li> <li>A guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya. <b>FOR LOTS 1 AND 2 EACH</b></li> </ol> <p>A dully filled tender securing declaration for <b>LOTS 3 AND 4</b></p>
ITT 19.1	The bidders must submit one (1) ORIGINAL TENDER” and one (1) COPY of the Tender sealed in a single outer envelope
ITT 19.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: (Must expressly give power of Attorney who shall be the signatory of all documents of all documents and the contract.
<b>D. Submission and Opening of Tenders</b>	
ITT 20.3	Bulky tenders which will not fit in the tender box shall be received at the <b>Procurement Office 5<sup>th</sup> Floor ,Anniversary Towers Room 525</b>
ITT 21.1	<p>Completed tenders must be delivered to the address below on or <b>29<sup>th</sup> March, 2022 AT 11:00 AM</b> East African Time.</p> <p><b>The Ag. Chief Executive Officer/Commission Secretary Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, University Way, Fifth Floor P O Box 45371-00100 Nairobi. Website: <a href="http://www.iebc.or.ke">www.iebc.or.ke</a></b></p>
ITT 24.1	<p>Tender will be opened on the same day <b>29<sup>th</sup>MARCH, 2022 AT 11:00 AM</b> East African Time.</p> <p>The tenderers’ representatives may access the tender opening proceedings through electronic means via a link that will be provided to bidders hence tenderers’ are encouraged to register with the procuring entity once they download the tender document and provide their email addresses</p>
ITT 24.6	The number of representatives of the Procuring Entity to sign Shall be a minimum of three (3) members

<b>E. Evaluation and Comparison of Tenders</b>	
ITT 29.3	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.
ITT 31.1	Prices shall be quoted in Kenya Shillings.
ITT 32.3	A margin of preference and/or reservation “ <i>shall not</i> ” apply .
ITT 32.5	This Invitation to tender is open to all eligible tenderers.
ITT 33 .2	Prices indicated on the Price Schedule shall be the cost of the goods quoted including all customs duties and VAT and other taxes payable per Lot and shall remain valid for 150 days after the date of tender opening. The same information shall be indicated in the form of tender.
ITT 33 .2 (d)	Additional evaluation factors are.....N/A
<b>F. Award of Contract</b>	
ITT 46.3	Performance security shall be only applicable on goods exceeding a tender sum of <b>Kshs.5, 000,000.00</b> and if so required shall be 10% for goods of the tender sum.
ITT 47	Procedures for making a procurement related complaint are detailed in the “Notice of intention to Award the Contract” herein and also available from the PPRA Website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> .

## SECTION III - EVALUATION AND QUALIFICATION CRITERIA

### 1. General Provision

- 1.1 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:
- For construction 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 are to be converted) was originally established.
  - Value of single Contract-Exchange rate prevailing on the date of the contract signature.
  - Exchange rates shall be taken from the publicly available source identified in the ITT. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.
- 1.2 This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms.
- 1.3 Evaluation and contract award Criteria

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

### 2. Evaluation of Tender

Tenders will be evaluated using the criteria set out in this tender document. There are Four stages set out for the evaluation and comparison of tenders:

#### a) Preliminary Eligibility Evaluation for All the Lots.

No.	Subject	Criteria	Mandatory Requirements	Responsive or Non-Responsive.
1.	Legal Capacity	To determine capacity to enter into Contract.	Must submit a Copy of Certificate of incorporation/Registration	
2.	Ownership Structure	Confirmation of details of Directors and share holders	Must submit a copy of CR12 accompanied with copies of directors' identification cards. (Issued within the last 6 months to tender closing)	
			In case of a Sole Proprietor attach ID Copies of the Directors	
3.	Tax Compliance	Proof of the bidder has fulfilled tax obligations.	Must submit a Copy of a valid tax compliance certificate (Verification will be done through TCC Checker)	

4.	Form of Tender	The form of tender to be duly filled and signed to be submitted along with the following documents as indicated;	1. Duly filled, signed and stamped form of tender <b>(Section K &amp; L in the form of tender to be completed)</b> 2. Certificate of independent tender determination <b>(dullyfilled and signed &amp; stamped)</b> 3. Self-declaration Form SD1 & FORM SD2 <b>(dully filled and signed&amp; stamped)</b>	
5.	Price schedule & validity	Price schedule to be dully filled & signed. Price quoted shall remain to be the absolute and final price.	Must submit a Dully Filled, signed and stamped the Price Schedule in the format provided.	
6.	Ethical and legal history	Proof that the bidder will commit to the code of ethics and is not debarred	Must submit a Duly filled, signed and stamped declaration and commitment to the code of ethics form, SD1 and SD2	
7.	Tender format	The whole Tender document to be downloaded and filled in the format provided.	Must submit an original bid document and a copy of bid document with all forms filled in the format provided	
8.	Pagination/serialization	To safeguard tender documents from mutilation and manipulation	Tender document MUST be sequentially Paginated /serialized on each page including all the attachments in the sequence 1,2,3,4,5,6,7,8,9.....	
10.	Confidential Business Questionnaire	To provide details of business ownership structure	Must submit a Duly filled, signed and stamped Confidential Business Questionnaire	

	Tender Security	To cushion against procurement proceedings risks.	Original Tender Security equivalent to Kshs. 50,000.00 for lot 1 & 2 valid for 180 days each from date of opening the tender in form of either the following: - a) Cash b) A bank guarantee; c) A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or d) A guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya.	
		To cushion against procurement proceedings risks.	Duly Filled, Stamped Tender Securing Declaration Form Authority – ONLY FOR YOUTH and WOMEN CATEGORIES	
13.	Business permit/trading license	Proof of the bidder is authorized to operate the business.	Valid trade license from respective County Government	
14.	Registration with the relevant Authority	Evidence that the tenderer meets statutory requirements set by The National Treasury	Valid Certificate of Registration to the target group issued by the National Treasury (AGPO Certificate) - ONLY FOR YOUTH and WOMEN CATEGORIES	

**At this stage, the tenderer's submission will either be Compliant or non-Compliant. The non-compliant submission in any of the above Preliminary mandatory requirements will be eliminated and will not be considered for further evaluation.**

**b) Vendor Evaluation (Capacity to Deliver)**

1.	Financial Capacity	Evidence of access to credit.	Provide a Reference/Opinion Letter from a reputable financial Institution.	
2.	Past performance	Evidence of supplies	Provide copies of orders (LPO's) or contracts from government institutions.	

3.	References letters	Provide five (5) reference /or recommendation letters from clients for efficient supply and delivery items.	Provide five (5) reference /or recommendation letters from clients for efficient supply and delivery of goods .At least three (3) should be from a government institution.	
4.	Sample Submitted	a. 4 Tamperproof Envelope and A3 Tamperproof Envelope b. Hacksaw Blade c. IEBC Branded Greenish Reflector Jacket d. Assorted IEBC Rubber Stamps <ul style="list-style-type: none"> <li>✓ Registration Officer”</li> <li>✓ IEBC Returning Officer</li> <li>✓ County Returning Officer</li> <li>✓ Presiding Officer</li> <li>✓ IEBC Rejected</li> <li>✓ IEBC Rejection Objected to</li> <li>✓ IEBC Disputed</li> <li>✓ IEBC Spoilt</li> </ul>	Provide samples for the items requested as per schedule of requirements in conformity with the Specifications provided. (FOR TENDERED LOT)	

**c) Sample Analysis Technical Evaluation;**

**i) IEBC Branded Tamper Proof Envelope A4 and A3**

S.No	Clause of specs.	Characteristics	Requirement	Evidence	Compliance (Yes/No)
1.	4.3	Finish	The tamper proof envelope shall be rectangular in shape, free from sharp edges and flaws when examined visually.	Sample submitted	
2.	4.4	<b>Branding</b>	The Tamper proof envelope shall have; <ul style="list-style-type: none"> <li>a) IEBC logo;</li> <li>b) postal address;</li> <li>c) provision of horizontal ruled lines for indicating the contents;</li> <li>d) words, "<b>IEBC CONFIDENTIAL MATERIAL</b>" at the bottom centre in red colour;</li> </ul>	Sample submitted	



ii) **Hacksaw Blade**

S.No	Clause of specs.	Characteristics	Requirement	Evidence	Compliance (Yes/No)
1.	4.2	<b>Ends</b>	The ends of hand blades shall be rounded or chamfered but for power blades square ends are permissible.	Sample submitted	
2.	4.3	<b>Teeth</b>	The teeth shall be cut regularly and cleanly along one edge of the blade. The pitch shall be as given in Tables 1 and 2.	Sample submitted	
3.	4.4	<b>Set</b>	The formation of the set shall be symmetrical along the toothed edge of the blade. The amount of overall set is left to the discretion of the manufacturer	Sample submitted	

iii) **IEBC Branded Greenish Reflector Jacket – AS PER SAMPLE VIEWED**

iv) **Assorted IEBC Rubber Stamps**

S.No	Clause of specs.	Characteristics	Requirement	Evidence	Compliance (Yes/No)
1.	4	<b>Classification</b>	Rubberstamps shall be classified according to the following: a) The prints on the die face b. The shape of the die face	Sample submitted	
2.	4.1	<b>Prints on the die face</b>	Rubberstamp shall be of the following type: a) "Registration Officer" b) IEBC c) Returning Officer d) County Returning Officer e) Presiding Officer f) <b>IEBC Rejected</b> g) <b>IEBC Rejection Objected to</b> h) <b>IEBC Disputed</b> i) IEBC Spoilt	Sample submitted	
3.	4.2	<b>Shape of the die face</b>	Rubberstamp shall be of the following type: a) Mono-circular b) Di-circular.	Sample submitted	
4	5	<b>Requirements</b>	<b>5.1</b> The rubberstamp shall consist of two parts, the stamp die and the handle.		

**d) The Financial Evaluation.**

ITT 33 .6 (F)	Award Criteria	<ul style="list-style-type: none"><li>i) The Contract will be awarded to the successful tenderer whose tender has been determined to;<ul style="list-style-type: none"><li>a) Be substantially responsive to the tender documents;</li><li>b) Offer the lowest evaluated cost to the Procuring Entity for the Goods per line item</li><li>c) Substantially meet the qualification criteria applicable for the specific goods.</li></ul></li><li>ii) The Framework Contracts shall be signed with the successful bidders using the actual unit prices.</li><li>iii) Call off orders using the actual unit prices will be placed with the successful tenderer as and when required (AWR) during the 3-year contract period.</li><li>iv) The award of the Framework Contracts shall to the successful tenderers after bidders have been ranked from the lowest evaluated total price based on the indicative minimum quantities.</li><li>v) Bidders will be considered for only one lot.</li></ul>
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**e) Other conditions depending on their seriousness.**

**a) History of non-performing contracts:**

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last (5 *years*). The required information shall be furnished in the appropriate form.

**b) Pending Litigation**

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

**c) Litigation History**

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last(5 years) All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the year's specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

**d) Due Diligence**

Prior to award of the tender, the Commission may make site visits to the service provider's premises to ascertain its capability of delivering the maintenance service and/or seek for third party collaboration to the successful service provider's reference sites to confirm the authenticity of the sites and the scope of work done.

## **SECTION IV - TENDERING FORMS**

Form of Tender

Tenderer Information Form

Tenderer JV Members Information Form

Price Schedule: Goods Manufactured Outside Kenya, to be Imported Price

Schedule: Goods Manufactured Outside Kenya, already imported Price Schedule:

Goods Manufactured in Kenya Price and Completion Schedule – Related Services

Form of Tender Security – Demand Guarantee Form of Tender Security (Tender Bond)

Form of Tender-Securing Declaration Manufacturer's Authorization Form

## FORM OF TENDER

### INSTRUCTIONS TO TENDERERS

- i) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*
- ii) *All italicized text is to help Tenderer in preparing this form.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.*

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: The total price of our Tender, excluding any discounts offered in item (f) below is:

Option 1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]*;

or

Option 2, in case of multiple lots: (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]*; and (b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]*;

- 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) **Performance Security:** If our Tender is accepted, we commit to obtain a performance security in accordance with the Tendering document;
- i) **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;
- j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, 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;
- k) **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];
- l) **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.”)

- m) **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;
- n) **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
- o) **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.
- (p) **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 [www.ppra.or.ke](http://www.ppra.or.ke) during the procurement process and the execution of any resulting contract.
- (q) **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.

- (f) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict of 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.
  - 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.



## 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 AND SIGNATURE OF AUTHORIZED AGENT OF TENDERER AND DATE]

.....

Name

Title

Date

## 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:-

THAT I am the Company Secretary/ 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.

1. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
2. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

..... .  
..... .  
(Title) (Signature) (Date)

Bidder Official Stamp

## 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.....(*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

## 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 Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; 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 award<sup>1</sup> 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, suppliers 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 Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> 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.

---

*1 For 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 supplier, 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.*

*<sup>2</sup> 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.*

## 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 <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> For Kenyan Tenderers a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.  <input type="checkbox"/> 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.  <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1.  <input type="checkbox"/> 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, a list of Board of Directors, and the beneficial ownership.

## 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 contactperson.
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.	
8		

### General and Specific Details

### b) Sole Proprietor, provide the following details.

Name in full \_\_\_\_\_

Age \_\_\_\_\_

c) Partnership, provide the following details.

	<b>Name of Partners</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
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:-

iii) Nominal Kenya Shillings  
(Equivalent).....

iv) .Issued Kenya Shillings  
(Equivalent).....

v) Give details of Directors as follows.

	<b>Name of Partners</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
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.

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

**Conflict of interest disclosure**

	<b>Type of Conflict</b>	<b>Disclosure YES OR NO</b>	<b>If YES provide details of the relationship with Tenderer</b>
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 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\_

---

(Signature)

(Date)

---

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## 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's legal name)</i>
3. Tenderer's JV Member's country of registration name: <i>(insert JV's Member's country of registration)</i>
4. Tenderer's JV Member's year of registration: <i>(insert JV's Members year of registration)</i>
5. Tenderer's JV Member's legal address in the country of registration: <i>(insert JV's Member's legal address in the country of registration)</i>
6. Tenderer's JV Member's authorized representative information Name: <i>(insert name of JV's Member's authorized representative)</i> Address : <i>(insert address of JV's Member's authorized representative)</i> Telephone/ Fax numbers: <i>(insert Telephone/Faxnumbers of JV's Member's authorized representative)</i> Telephone/ Fax numbers: <i>(insert email address of JV's Member's authorized representative)</i>
7. Attached are copies of original documents of <i>(check the box(es) of the attached original documents)</i> 4.4.
8. Included are the Organizational Chart, a List Of Board of Directors, and beneficial ownership

## Price Schedule Forms

[The tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column

1 of the Price Schedules shall coincide with the List of Goods and Related Services specified by the Procuring Entity in the Schedule of Requirements.]

### Price Schedule: Goods Manufactured Outside Kenya, to be Imported.

Date .....								
Alternative No.....								
Page No.....of.....								
1	2	3	4	5	6	7	8	9
Line Item No	Description of Goods	Country of Origin	Delivery date as defined by Incoterms	Quantity and Physical Unit	Unit price CIP <i>(insert place of destination)</i> in accordance with ITT 14.8(b)(i)	CIP Price per line Item (Col. 5x6)	Price per item for inland transportation and other services required in Kenya to convey the Goods to their final destination specified in TDS	Total Price per Line Item (Col. 7+8)
<i>(insert number of the item)</i>	<i>(insert name of good)</i>	<i>(insert Country of origin of the good )</i>	<i>(insert quoted Delivery Date)</i>	<i>(insert number of units to be supplied and name of the physical unit)</i>	<i>(insert unit price CIP per unit)</i>	<i>(insert total CIP price per line item)</i>	<i>(insert the corresponding price per line item)</i>	<i>(insert total price of the line item)</i>
1	<b>A4 Tamperproof Envelope</b>			5 PIECES EACH				
2	<b>A3 Tamperproof Envelope</b>			5 PIECES EACH				
3	<b>Hacksaw Blade</b>			5 PIECES				

4	IEBC Branded Greenish Reflective Jackets			5 PIECES				
5	Assorted IEBC Rubber Stamps a) Registration Officer” b) IEBC c) Returning Officer d) County Returning Officer e) Presiding Officer f) IEBC Rejected g) IEBC Rejection Objected to h) IEBC Disputed i) IEBC Spoilt			9 PIECES				
<b>Total Price</b>								

Name of tenderer *[insert complete name of tenderer]* Signature of tenderer *[signature of person signing the Tender]* Date *[Insert Date]*

Price Schedule: Goods Manufactured Outside Kenya, already Imported. (Group C Tenders, Goods already imported (Currencies in accordance with ITT 15)

(Group C Tenders, Goods already imported)

Date .....

Currencies in accordance with ITT 15

Alternative No.....

Page No.....of.....

1	2	3	4	5	6	7	8	9	10	11	12
Line Item No	Description of Goods	Country of Origin	Delivery date as defined by Incoterms	Quantity and Physical Unit	Quantity Price including Custom Duties and Import Taxes paid, in accordance with ITT 14.8 {c} (i)	Custom Duties and Import Taxes per unit in accordance with ITT 14.8 {c} (ii) (to be supported by documents)	Unit Price of Custom Duties and Import Taxes paid, in accordance with ITT 14.8 {c} (iii) (Col. 6 minus Col. 7)	Price per Line Item net of Custom Duties and Import Taxes paid, in accordance with ITT 14.8 (c) (i) (Col. 5x8)	Price per Line Item for inland transportation and other services required in Kenya to convey the goods to their final destination, as specified in TDS, in accordance with ITT 14.8 (c) (v)	Sales and other taxes paid or payable per item if Contract is awarded (in accordance with ITT 14.8 (c) (iv))	Total price per line item (Col. 9 + 10)
<i>(insert number of the item)</i>	<i>(insert name of good)</i>	<i>(insert Country of origin of the good)</i>	<i>(insert quoted Delivery Date)</i>	<i>(insert number of units to be supplied and name of the physical unit)</i>	<i>(insert unit price per unit)</i>	<i>(insert custom duties and taxes paid per unit)</i>	<i>(insert unit price net of custom duties and import taxes)</i>	<i>(insert price per line item net of custom duties and import taxes)</i>	<i>(insert price per line item for inland transportation and other services required in Kenya)</i>	<i>(insert sales and other taxes payable per item if Contract is awarded)</i>	<i>(insert total price per line item)</i>
1	<b>A4 Tamperproof Envelope</b>			5 PIECES EACH							
2	<b>A3 Tamperproof Envelope</b>			5 PIECES EACH							
3	<b>Hacksaw Blade</b>			5 PIECES							
4	<b>IEBC Branded Greenish Reflective Jackets</b>			5 PIECES							
5	<b>Assorted IEBC Rubber Stamps</b> a) Registration Officer" b) IEBC			9 PIECES							

	c) d) e) f) g) h) i)	Returning Officer County Returning Officer Presiding Officer <b>IEBC Rejected</b> <b>IEBC Rejection</b> <b>Objected to</b> <b>IEBC Disputed</b> <b>IEBC Spoilt</b>										
TOTAL PRICE												



## Price Schedule: Goods Manufactured in Kenya

<div> Date _____  Alternative No: _____  Page of _____ N° _____ </div>									
1	2	3	4	5	6	7	8	9	10
Line Item No.	Description of Goods	Delivery date as defined by incoterms	Quantity and physical unit	Unit Price EXW	Total EXW price per line item (Col. 4x5)	Price per line item for inland transportation and other related services to convey Goods to their final destination	Cost of local labor, raw materials and components from within the purchase's country as a % of the EXW price per line item.	Sales and other taxes payable per line item if contract is awarded (in accordance with ITT 14.8(a)(ii))	Total price per line item (Col. 6+7)
<i>(insert number of the item)</i>	<i>(insert name of good)</i>	<i>(insert quoted Delivery Date)</i>	<i>(insert number of units to be supplied and name of the physical unit)</i>	<i>(insert EXW unit price)</i>	<i>(insert total EXW price per line item)</i>	<i>(insert the corresponding price per line item)</i>	<i>(insert Cost of local labor, raw materials and components from within the purchase's country as a % of the EXW price per line item.)</i>	<i>(insert sales and other taxes payable per line item if Contract is awarded)</i>	<i>(insert total price per item)</i>
1	<b>A4 Tamperproof Envelope</b>		5 PIECES						
2	<b>A3 Tamperproof Envelope</b>		5 PIECES						
3	<b>Hacksaw Blade</b>		5 PIECES						
4	<b>IEBC Branded Greenish Reflective Jackets</b>		5 PIECES						

5	<b>Assorted IEBC Rubber Stamps</b> i) Registration Officer" j) IEBC k) Returning Officer l) County Returning Officer m) Presiding Officer n) <b>IEBC Rejected</b> o) <b>IEBC Rejection Objected to</b> p) <b>IEBC Disputed</b> l) <b>IEBC Spoilt</b>		9 PIECES							
<b>Total Price</b>										

**Price Schedule: Goods Manufactured in Kenya – To be ordered as and when required**

Alternative No. _____						
Page of No. _____						
1	2	3	4	5	6	7
Line Item No.	Description of Goods	Quantity of physical unit (Piece)	Unit Price Per Unit	Total Price per Lot (Exclusive of taxes)	Total Taxes	Total Price Per Lot (Inclusive of Taxes)
1.	<b>A4 Tamperproof Envelope</b>	5 PIECES				
2	<b>A3 Tamperproof Envelope</b>	5 PIECES				
3.	<b>Hacksaw Blade</b>	5 PIECES				
4.	<b>IEBC Branded (Greenish - Yellow) Reflective Jackets</b>	5 PIECES				
5.	<b>Assorted IEBC Rubber Stamps</b> a) Registration Officer" b) IEBC c) Returning Officer d) County Returning Officer e) Presiding Officer f) IEBC Rejected g) IEBC Rejection Objected to h) IEBC Disputed l) IEBC Spoilt	9 PIECES				
					<b>Total Price</b>	

Name of tenderer *[insert complete name of tenderer]* Signature of tenderer *[signature of person signing the Tender]* Date *[Insert Date]*

## FORM OF TENDER SECURITY - DEMAND BANK GUARANTEE

Beneficiary: \_\_\_\_\_

ITT No: \_\_\_\_\_

Date: \_\_\_\_\_

TENDER GUARANTEE No.: \_\_\_\_\_

Guarantor: \_\_\_\_\_

1. We have been informed that \_\_\_\_\_ (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (hereinafter called "the Tender") for the execution of \_\_\_\_\_ under Request for Tenders No. \_\_\_\_\_ ("the ITT").
2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (\_\_\_\_\_) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
  - a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
  - b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty- eight days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

\_\_\_\_\_  
[signature(s)]

## FORM OF TENDER SECURITY (TENDER BOND)

*[The Surety shall fill in this Tender Bond Form in accordance with the instructions indicated.]*

BOND NO. \_\_\_\_\_

1. By this Bond.....*[name of tenderer]* as Principal (hereinafter called “the Principal”), and.....*[name, legal title, and address of surety]*, authorized to transact business in *[name of country of Procuring Entity]*, as Surety (hereinafter called “the Surety”), are held and firmly bound unto..... *[name of Procuring Entity]* as Obligee (hereinafter called “the Procuring Entity”) in the sum of ..... *[amount*

*of Bond]*<sup>1</sup> *[amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS the Principal has submitted or will submit a written Tender to the Procuring Entity dated the \_\_\_\_\_ day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_, for the supply of \_\_\_\_\_ *[name of Contract]* (hereinafter called the “Tender”).

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
- b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or
- (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

then the Surety undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 30 days after the date of expiration of the Tender Validity Period set forth in the Principal's Letter of Tender or any extension thereto provided by the Principal.
5. IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this day of \_\_\_\_\_ 20\_\_\_\_\_.

Principal: \_\_\_\_\_ Corporate Seal (where appropriate) Surety: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

(Printed name and title)

(Printed name and title)

<sup>1</sup>The amount of the Bond shall be denominated in the currency Kenya shillings or the equivalent amount in a freely convertible currency

## FORM OF TENDER-SECURING DECLARATION

[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.
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.

## MANUFACTURER'S AUTHORIZATION FORM

[THE TENDERER SHALL REQUIRE THE MANUFACTURER TO FILL IN THIS FORM IN ACCORDANCE WITH THE INSTRUCTIONS INDICATED. THIS LETTER OF AUTHORIZATION SHOULD BE ON THE LETTERHEAD OF THE MANUFACTURER AND SHOULD BE SIGNED BY A PERSON WITH THE PROPER AUTHORITY TO SIGN DOCUMENTS THAT ARE BINDING ON THE MANUFACTURER. THE TENDERER SHALL INCLUDE IT IN ITS TENDER, IF SO INDICATED IN THE TDS.]

Date:.....[insert date (as day, month and year) of Tender submission]ITT No.....[insert number of ITT process]

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

To: ..... [insert complete name of Procuring Entity] WHEREAS

We..... [insert complete name of Manufacturer], who are official manufacturers of.....[insert type of goods manufactured], having factories at [insert full address of Manufacturer's factories], do hereby authorize [insert complete name of tenderer] to submit a Tender the purpose of which is to provide the following Goods, manufactured by us. .... [insert name and or brief description of the Goods], and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

Signed: .....[insert signature(s) of authorized representative(s) of the Manufacturer]

Name:.....[insert complete name(s) of authorized representative(s) of the Manufacturer]

Title:.....[insert title]

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [insert date of signing]

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## **PART 2: SUPPLY REQUIREMENTS**

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## SECTION V - SCHEDULE OF REQUIREMENTS

The Commission intends to engage a reputable firm(s) for Supply and Delivery of Non-Strategic Election Materials as per the provided Technical Specifications. The supply shall be for three years' framework contract arrangements (as and when required basis).

### HACKSAW BLADES — SPECIFICATION

#### 1. Scope

This IEBC standard specifies the dimensions, materials and performance requirements for single toothed edge hacksaw blades for the following types and as indicated for hand or power use.

- (a) *Low alloy steel* — All hard and flexible types for hand use,
- (b) *High speed steel* — All hard and flexible types for hand use,

#### 2. Nomenclature and definitions

For the purposes of this standard, the following nomenclature and definitions relating to hacksaw blades, whether for hand or power operations apply:

##### 2.1 elements (see Figure 1)

##### 2.1.1 datum line The longitudinal line which passes through the centre of the blade width.

##### 2.1.2 pin hole (d)

the hole at each end of the blade by means of which the blade is held and tensioned when in use. The pin holes will normally be located on the centre line of the blade, but may in some instances be offset towards the toothed edge of the blade whilst remaining essentially parallel to that edge.

##### 2.1.3 teeth

the serrations formed across the thickness of the blade to provide cutting edges.

##### 2.1.4 toothed edge the longitudinal edge along which the teeth have been formed.

##### 2.1.5 tooth cutting edge

the transverse edge of each tooth, formed by the intersection of the flank and the face.

##### 2.1.6 face

the surface of the tooth adjacent to the cutting edge, on which the chip impinges as it is cut from the material being sawn.

### **2.1.7**

#### **flank**

the surface behind the cutting edge of the tooth which extends to the root radius.

### **2.1.8**

#### **root radius**

the radius connecting the face of one tooth and the flank of the preceding one.

### **2.1.9 gullet**

the space bounded by the face, root radius and flank of a tooth, which permits chip removal.

### **2.1.10**

#### **back edge**

the longitudinal edge parallel to the toothed edge.

### **2.1.11**

#### **side**

one of the flat surfaces between the toothed edge and the back edge.

## **2.2 Linear Dimensions and Size Designations (see Figure 2)**

### **2.2.1 blade length (l)**

The dimension between the centres of the pin holes.

### **2.2.2 overall length (L)**

The dimension between the ends of the blade measured along its centre line.

### **2.2.3 width (a)**

The dimension between toothed edge and the back edge.

### **2.2.4 thickness (b)**

The dimension between the two sides, excluding any set.

### **2.2.5 pitch (P)**

The distance between the adjacent cutting edges measured in millimetres.

### **2.2.6 number of teeth (N)**

The number of complete teeth contained in any 25 mm length measured along the toothed edge.

### **2.2.7 size designation**

The blade length, width, thickness and pitch (and number of teeth per 25 mm), are always expressed in that

order as shown in the following examples:

300 x 12.5 x 0.63 x 1.4

or

300 x 12.5 x 0.63 x 1.4 (18)

### 2.3 Set (see Figure 3)

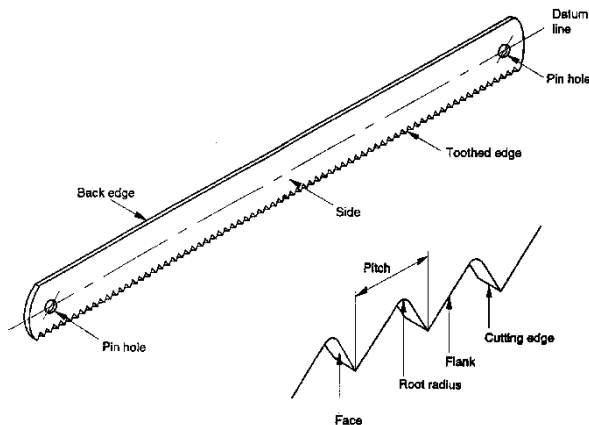
The projection of the teeth from the sides of the blade to provide clearance.

## 2.4 Hacksaw Blades

**2.4.1 low alloy steel all hard blade** — A blade manufactured from a high carbon steel which contains sufficient alloy addition to significantly enhance the wear resistance properties, uniformly hardened and tempered throughout except for the areas adjacent to the pin-holes.

**2.4.2 low alloy steel flexible blade** — A blade manufactured from a high carbon steel which contains sufficient alloy addition to significantly enhance the wear resistance properties, with a uniformly, hardened and tempered to toothed edge, the centre of the blade in the soft condition and back edge either soft or hard.

**2.4.3 shatterproof blade** — A hand blade, of any type or quality so manufactured that it will resist breakage but should breakage occur, it will not fragment into more than two pieces.



**FIG. 1 —  
Elements**

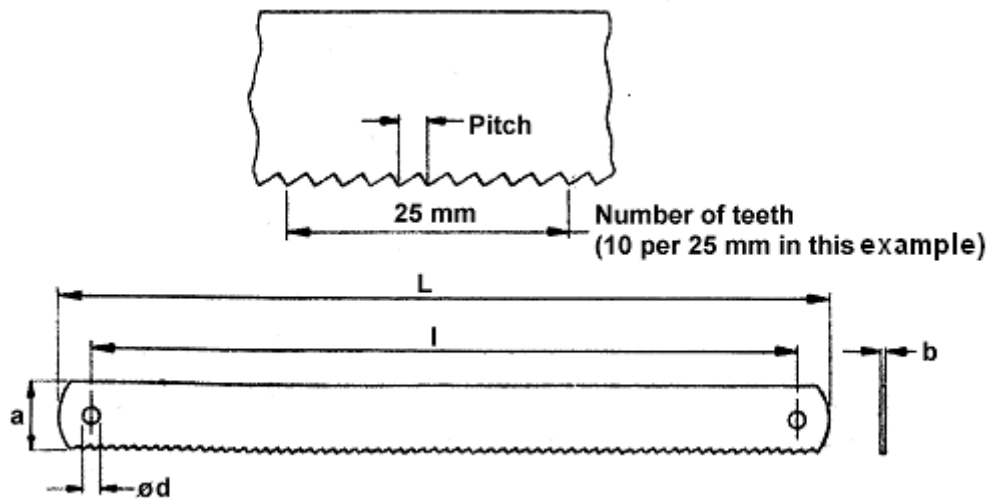


FIG. 2 — Linear dimensions

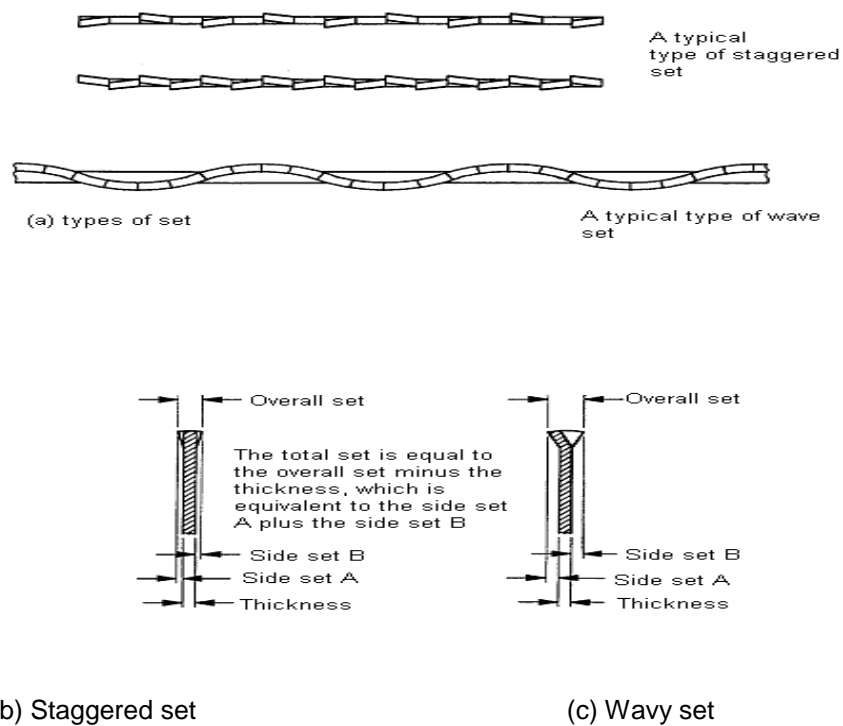


FIG. 3 — Blade set

### 3. Manufacture

3.1 **General** — Hand blades shall be made either from low alloy steel in accordance with 3.2 or high speed

steel in accordance with **3.3 (a)** or **3.3 (b)**, or bi-metal high speed steel in accordance with **3.4**. High speed steels are a group of steels designed for an ability to resist frictional heat generated during the machining. They are complex iron base alloys of carbon, chromium, vanadium, molybdenum and tungsten. The carbon and alloy contents are balanced to give high hardening response, and high resistance to wear.

Power blades shall be made either from high speed steel in accordance with **3.3 (a)**, or bi-metal high speed steel in accordance with **3.4**.

- 3.2 Low Alloy Steel** — Low alloy steel flexible blades shall be manufactured from a high carbon steel which contains sufficient alloy addition to significantly enhance wear resistance properties. The chemical composition shall be as follows:

*Chemical composition:*

Carbon	-	1.10	-	1.20
Silicon	-	0.15	-	0.85
Manganese	-	0.25	-	0.50
Chromium	-	0.20	-	0.50
Phosphorus	-	0.03 max.		
Sulphur	-	0.02 max.		

- 3.3 High Speed Steel** — Blades manufactured from high speed steel shall be heat treated in accordance with (a) for high speed steel all hard blades or (b) for high speed steel flexible blades. The chemical composition shall be as follows:

(a) *Chemical composition:*

Carbon	-	0.80	-	0.90
Manganese	-	0.30	-	0.50
Silicon	-	0.15	-	0.30
Chromium	-	4.00	-	4.50
Tungsten	-	6.00	-	6.50
Vanadium	-	1.80	-	2.20
Molybdenum	-	5.00	-	5.50
Sulphur	-	0.03 max.		
Phosphorus	-	0.03 max.		

- (b) High speed steel all hard blades shall be manufactured from high speed steel and shall be hardened and tempered with oil throughout except for the areas adjacent to the pin holes which are subject to further tempering to reduce the risks of breakage occurring. These blades are rigid.
- (c) High speed steel flexible blades shall be manufactured from high speed steel and shall be hardened and tempered uniformly along the toothed edge whilst the centre portion of the blade shall be soft.

These blades flex and thus resist breakage in use albeit some cracking of the hardened edge will be experienced if the blade is bent.

- 3.4 Bi-metal High Speed Steel** — Bi-metal high speed steel blades shall be manufactured with a toothed edge formed in high speed steel and joined to a spring steel hardened and tempered whereas the backing strip shall be retained in a spring like condition.

- 3.5 Shatterproof Blades** — Shatterproof blades shall resist breakage but should fracture occur, they shall not fragment into more than two pieces.

## **4. Form, dimensions and tolerances**

**4.1 General** — The blades shall conform to the dimensions given in Tables 1 and 2 and with the following limits of tolerance on straightness.

- (a) *Back edge* — When a straight edge is held against the back edge of a blade, the gap between the two edges due to any bowing of the blade shall not exceed the blade length divided by 200.
- (b) *Side* — When the blade is tensioned in a hand frame or machine, according to the frame or machine manufacturer's recommendations, and the straight edge is held against the side of the blade along the datum line, any gap between the straight edge and the side of the blade shall not exceed the blade length divided by 2 000. Alternatively, blades may be tensioned to  $170 \pm 40$  N/mm<sup>2</sup>.

**4.2 Ends** — The ends of hand blades shall be rounded or chamfered but for power blades square ends are permissible.

**4.3 Teeth** — The teeth shall be cut regularly and cleanly along one edge of the blade. The pitch shall be as given in Tables 1 and 2.

**4.4 Set** — The formation of the set shall be symmetrical along the toothed edge of the blade.  
The amount of overall set is left to the discretion of the manufacturer.

## 5. Marking

Each blade, and the package in which the blade is contained, shall be marked with a manufacturer's name or trade mark and country of origin or declaration 'Made in Kenya'.

## 6. Performance

**6.1 Cutting Performance** — When tested in accordance with **A1**, the wear rate of the hand or power blade and total time taken to complete the number of cuts shall not exceed the values given in Tables 4 and 5 for the appropriate type of steel.

The blade shall not produce a cut more than 3 mm out of square. The blade shall not break. A new blade shall be used for each test.

**6.2 Bend Performance** — Hand blades and all shatterproof blades shall be tested for resistance to breakage in accordance with **A2**.

Shatterproof blades shall not break into more than two pieces. A new blade shall be used for each test.

**Table 1: Dimensions of blades for hand use**

Blade length (i)	Nominal width (a)	Nominal thickness (b)	Neeth spacing		Nverall length (l) (max.)	Nin hole diameter (d)
			Pitch (P)	Number (N)		
mm	mm	mm	mm	mm	mm	mm
300 ± 2	12.5	0.63	0.8	32	315	+ 0.30 4 - 0
			1.0	24		
			1.4	18		
			1.8	14		

## Annex A

### Methods for testing the performance of hand hacksaw blades

## A1. Cutting performance

**A1.1 Principle** — the cutting performance of hand blades is assessed by subjecting sample blades to an accelerated test using calibrated hacksawing machines to control the variables in friction, strokes characteristics and dynamic loads.

The standard test bar is chosen to induce sufficient wear to the blade and to provide by it homogeneous structure reproducible machining characteristics.

**A1.2 Test Bar** — A test bar consisting of lengths of cold rolled 18/8 stainless steel strip, having the following analysis:

Carbon	0.06 % (max.)
Silicon	0.20 - 1.0 %
Manganese	0.50 - 2.0 %
Chromium	17.50 - 19.0 %
Nickel	8.0 - 11.0 %
Sulphur	0.03 (max.)
Phosphorus	0.045 (max.)

The strip shall be  $25.0 \pm 0.15$  mm in width,  $2.6 \pm 0.05$  mm in thickness. Then hardness shall be  $180 \pm 12$  HV 30. The material shall have rolled or prepared edges. Ragged sheared edges are to be avoided.

## A1.3 Apparatus

**A1.3.1 Test Machine for Hand Blades** — A power hacksaw machine having the following requirements:

- (a) Good condition, particularly in respect of stroke alignment and freedom from excessive vibration.
- (b) Main slides sufficiently free from friction to prevent variations in dynamic loads.
- (c) The main pivot on the same axis as the crank drive shaft.
- (d) Cuts on the forward stroke.
- (e) Presents the blade at an inclination of  $1^\circ 15' + 10'$  relative to the machine slides in the direction of cut.
- (f) A stroke length of  $153 + 1$  mm.
- (g) A cutting speed of  $70 \pm 2$  strokes/min when blades of high speed steel and bi-metal type are to be tested.
- (h) A cutting speed of  $35 \pm 2$  strokes/min when blades of low alloy type are to be tested.
- (i) Location facilities for the test bar such that when the machine is stroking, the test bar is positioned no closer than 50 mm from the blade pin holes.
- (j) No lift of the reciprocating arm on the return stroke.
- (k) An ability to generate dynamic loads in a vertically downward direction in accordance with Table 3 when measured at the top of the test bar.

**A1.3.2 Test Machine for Power Blades** — A power hacksaw machine having the following requirements:

- (a) Good condition, particularly in respect of stroke alignment and freedom from excessive vibration.
- (b) Cuts on the return stroke.
- (c) Presents a blade at an inclination of  $1^\circ 40' \pm 10'$  relative to the machine slides in the direction of cut.

- (d) A speed of the machine of  $124 \pm 2$  cutting strokes/min.
- (e) A stroke length of  $133 \pm 1$  mm.
- (f) The ability to locate the test bar when the machine is stroking such that the test bar is positioned no closer than 50 mm from the blade pin holes.
- (g) Lift-off on the non-cutting stroke synchronized so that no dynamic load is applied during the non-cutting stroke and that no dynamic load relief is applied during the cutting stroke.
- (h) An average vertically downwards dynamic load applied during the cutting stroke of  $550 \pm 10$  N when measured at the top of the test bar.
- (i) An ability to supply a coolant consisting of 100 g/L of  $\text{Na}_2\text{CO}_3 \cdot 10\text{H}_2\text{O}$  in water to the blade immediately above the test bar at a rate of 2 L/min, minimum.

#### **A1.3.3 Calibration Equipment — Consisting of the following:**

- (a) A dynamometer to measure the load applied vertically downwards by the blade to the test bar.
- (b) A linear transducer to measure blade position.
- (c) A device to record load applied against blade position.

Apart from the special instruments detailed in (a), (b) and (c), the test machine can be set up with ordinary workshop equipment.

#### **A1.3.4 Preparation of Test Blades — There is no preparation required for hand blades.**

Correct power blades to a length of 350 mm if necessary. Testing in the unaltered length is valid if the bow capacity of the machine allows, and alteration of blade clamping mechanisms in the machine is also tolerable.

#### **A1.3.5 Test Procedure — Calibrate the test machine to the dynamic loads given in Table 3 for hand blades and 550 N for power blades.**

Once the dynamic load has been adjusted to give the average dynamic load specified, ensure that the jaw of the test bar clamp that is nearest the main pivot of the machine remains in a fixed position, irrespective of the number of test bar strips being used in the blade testing.

Position lengths of strip in accordance with Table 4 for hand blades, or Table 5 for power blades, edge upwards in the machine workpiece vice to form a pack approximately 25 mm deep. (The actual width of the pack is determined by the number and thickness of strips given in Tables 4 and 5.)

**Table 3: Dynamic loads required during the testing of hand blades  
(generated at top of cut)**

Position of bow	Dynamic load at 35 strokes/min		Dynamic load at 70 strokes/min	
	Forward Stroke	Return Stroke	Forward Stroke	Return Stroke
	N	N	N	N
Start of stroke	$22 \pm 5$	$22 \pm 5$	$13 \pm 5$	$13 \pm 5$



Mid-stroke	78 ± 5	53 ± 5	77 ± 5	52 ± 5
End of stroke	100 ± 5	84 ± 5	114 ± 5	101 ± 5

Ensure that the upper face of the test bar material is free from protruding edges.

Clamp the test bar on both sides of the blade, not more than 2 mm in the hand blade tests and 4 mm in the power blade tests away from the cutting area.

Ensure that the position of the test bar is not changed for the purpose of causing any unused portion of blade to cut or for any other purpose.

Tension the blade within the bow of the hacksaw machine to  $170 \pm 40$  N/mm<sup>2</sup>.

The appropriate conditions of speed, number of cuts, number and thickness of strips for carrying out the test are given in Table 4 for hand blades, or Table 5 for power blades.

Apply coolant in the test of power blades only. Record the number of strokes required to complete each cut. To prevent excessive tooth damage to power blades, gently lower the blade being tested whilst stroking, onto the test bar and relieve the load for the first few cutting strokes of each cut until a groove is cut across the whole pack of strips forming the test bar.

#### **A1.3.6 Assessment of Results** — Calculate the wear rate and total time as given in (a) and (b).

- (a) *Wear rate* — Wear is represented by the recorded number of strokes plotted sequentially against section number. The average increase in wear per section cut is the slope of the plotted curve.

A mathematical value for this is derived by first performing at least squares linear regression which is designed to minimize the sum of the squares of the deviation of the actual recorded data points from the straight line of best fit and then calculating the slope of the line.

This can be done manually using the following formula:

$$\text{Wear rate} = \frac{N \sum(n x_n) - n \sum x_n}{N \sum n^2 - (\sum n)^2} \Bigg| \frac{N}{n} = 1$$

where

$N$  is the number of cuts,

$n$  is the cut number, and

$x_n$  is the number of strokes per cut.

- (b) *Total time* — The total time shall be calculated by dividing the cumulative number of strokes for the allotted number of sections to be cut by the number of strokes per minute performed by the machine.

#### **A1.3.7 Test Report** — Cutting performance test results shall state the nominal dimensions and teeth pitch of the blade, the type of blade, the stroking rate per minute of the machine and the number of strips used in the pack of test bars.

The wear rate shall be reported to the nearest whole number and the total time to the nearest minute. The number of cuts completed by the blade shall be reported and the amount by which the blade cut out of square if the amount exceeded 3 mm.

**Table 4: Test conditions and acceptance limits for hand blade cutting tests**

Blade type	Blade dimensions			Speed	No. of cuts	Test bar		wear rate	total time
	thickness	pitch	no. of teeth			no. of strips	thickness of strip		
	mm	mm		strokes /min			mm		min
High speed	0.63	1.8	14	70	10	10	2.6 ± 0.05	33	92
Steel	0.63	1.4	18	70	10	10	2.6 ± 0.05	37	112
All hard	0.63	1.0	24	70	10	9	2.6 ± 0.05	40	124
Bi-metal	0.63	0.8	32	70	10	8	2.6 ± 0.05	40	132
High speed	0.63	1.8	14	70	8	10	2.6 ± 0.05	73	122
Steel	0.63	1.4	18	70	8	10	2.6 ± 0.05	78	132
Flexible	0.63	1.0	24	70	8	9	2.6 ± 0.05	118	146
	0.63	0.8	32	70	8	8	2.6 ± 0.05	120	149
Low alloy	0.63	1.8	14	35	8	5	2.6 ± 0.05	44	134
Steel	0.63	1.4	18	35	8	5	2.6 ± 0.05	40	123
Flexible	0.63	1.0	24	35	8	5	2.6 ± 0.05	34	147
	0.63	0.8	32	35	8	4	2.6 ± 0.05	37	127

**Table 5: Test conditions and acceptance limits for power blade cutting tests  
(high speed steel, all hard and bi-metal)**

BLADE DIMENSIONS				SPEED	NO. OF CUTS	TEST BAR		WEAR RATE	TOTAL TIME
Length	Width	Thickness	Pitch			No. of strip	Thickness of strip		
Mm	mm	mm	mm	Strokes/ Min.			mm		min.
300 and 350	25	1.25	1.8	124	10	15	2.6 ± 0.05	66	61
300 and 350	25	1.25	2.5	124	10	20	2.6 ± 0.05	56	61
350 400 450	32	1.60	2.5	124	10	20	2.6 ± 0.05	65	87
350 400 450	32	1.60	4.0	124	10	25	2.6 ± 0.05	47	60
400 450	40	2.00	4.0	124	10	25	2.6 ± 0.05	81	80
400 450	40	2.00	6.3	124	10	25	2.6 ± 0.05	69	76

## **A2. Bend test**

**A2.1 Principle** — The resistance to breakage of hard blades is assessed by bending sample blades round a former. Flexible blades and bi-metal high speed steel types are subject to a more severe bend than all hard type blades (see figure 4 (a), (b)).

Shatterproof blades are subjected to a further destructive test (see figure 4 (c)) to check that upon rupture

the blades will not break into more than two pieces.

All dimensions are in millimetres

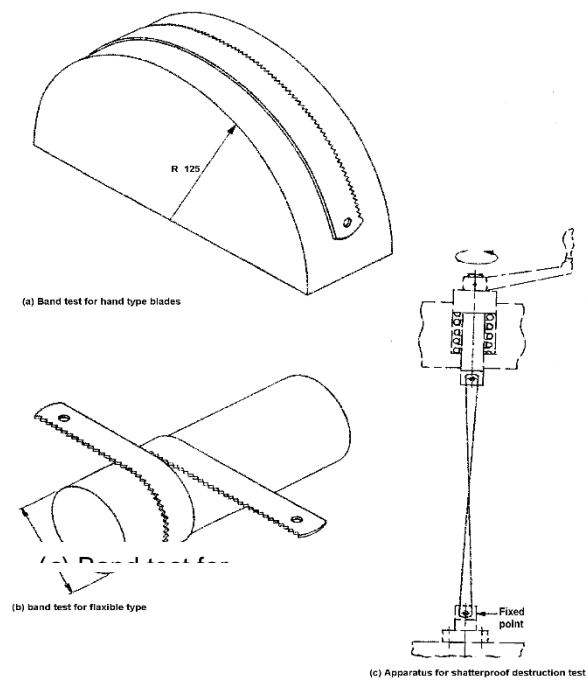


Figure 4 Band tests

## IEBC BRANDED (GREENISH-YELLOW) REFLECTIVE JACKETS — SPECIFICATION

## **1. Scope**

This IEBC Standard specifies the optical performance of garments (Reflective Jackets) and accessories intended primarily to provide conspicuity of the wearer on the highway or other areas.

It also specifies minimum areas and required dispositions of the component materials which themselves are specified in terms of colour and retroreflective characteristics. The maximum permitted degradation of the optical performance due to abrasion, wetting, exposure to light, and cleaning or washing is also specified.

## **2. Definitions**

For the purposes of this IEBC Standard the following definitions apply:

### **2.1 retroreflection**

reflection on which the reflected rays are preferential returned in directions close to the opposite of the direction of the incident rays, this property being maintained over wide variations of the incident rays.

### **2.2 Retroreflector**

a surface or device from which most of the reflected radiation is retroreflected.

### **2.3 observation angle**

The angle by which the direction of observation of the retroreflector departs from the direction of the incident light.

### **2.4 entrance angle**

The angle between the direction of light incident on a retroreflecting surface and the normal at the point of incidence.

### **2.5 coefficient of retroreflection**

a coefficient expressing the luminous intensity per unit area of a retroreflecting surface.

**Note 1:** This is defined in publication No. 54: 1982 of the Commission Internationale de l'Eclairage.

### **2.6 material**

a material which is visually conspicuous against most urban and rural backgrounds.

### **2.7 background material**

a coloured material intended to be conspicuous particularly under diffuse illumination, but not intended to comply with the requirements of this standard for retroreflective materials.

### **2.8 retroreflective material**

a material which is a retroreflector but which is not intended to comply with the requirements of this standard for background material.

## **2.9**

### **separate-performance material**

a material intended to exhibit either background or retroreflective properties but not both.

## **2.10**

### **combined-performance material**

A material intended to exhibit both background and retroreflective properties.

## **2.11**

### **IEBC**

Independent Electoral and Boundaries Commission.

## **3. Classification of garments and accessories**

In this IEBC Standard, garments and accessories are categorized in three classes, as follows:

### **3.1 Class A**

High-visibility aid, providing the highest level of conspicuity.

### **3.2 Class B**

High-visibility aid, providing the intermediate level of conspicuity.

### **3.3 Class C**

high-visibility aid, providing the lowest level of conspicuity.

## **4. Performance of materials**

**Note 2:** Garments and accessories may be constructed from separate-performance materials or from combines-performance material.

### **4.1 General**

The optical performance of any specimen square of side 50 mm shall be representative of the overall optical performance of the material.

### **4.2 Colour of Background and Combined-Performance Materials**

#### **4.2.1 Colorimetric performance**

When colour is measured by the method described in Appendix B using dry specimens which have been abraded as described in Appendix C, both background material and combined-performance material shall comply with either 4.2.2 or 4.2.3.

**Note 3 :** The requirements, expressed in different coordinate systems in 4.2.2 and 4.2.3 are not exactly equivalent but, in view of the unavoidable imprecision of colour measurements of fluorescent materials, either may be used. The colours of acceptable materials occupy a certain zone in colour space. the boundaries of this zone can be defined in either of the coordinate systems of the Commission Internationale de l'Eclairage (CIE), that is, in CIE x, y, Y, values or CIELAB L\*, C\*, h values. It is convenient, for the purposes of this standard, to define this zone in terms of three regions when using x, y, Y values but when L\*, C\*, h values are used, only two regions are necessary to define the same zone, within the limits of accuracy of colour measurement.

The colour of the reflective jacket shall be as of green of colour code 375 U in accordance with pantone colour

chart or its equivalent in colour measurement coordinates

#### 4.2.2 CIE Coordinates

If the results of colour measurements on the dry abraded material are expressed in the CIE 1931 system of coordinates, then the chromaticity coordinates  $x$  and  $y$ , and the luminance factor  $Y$ , shall comply with the limits for any one of the three colour regions  $xy_1$ ,  $xy_2$  and  $xy_3$  defined in Table 1.

#### 4.2.3 CIELAB Coordinates

If the results of colour measurements on the dry abraded material are expressed in the CIELAB system of coordinates then the lightness  $L^*$  chroma  $C^*_{ab}$  and hue angle  $h_{ab}$  shall comply with the limits for either of the two colour regions CL1 and CL2 defined in Table 2.

**Table 1. Colorimetric Specification (CIE Coordinates)**

Region	Limiting coordinates		Minimum luminance factor, $Y$	
	$x$	$y$	Background Material	Combined Performance Material
$xy_1$	0.38 0.37 0.41	0.62 0.50 0.59	90	70
$xy_2$	0.41 0.37 0.47 0.51	0.59 0.50 0.45 0.49	70	60
$xy_3$	0.51 0.47 0.56 0.63	0.49 0.45 0.36 0.37	50	50
<b>Note 1:</b> The limiting coordinates $x$ and $y$ represent the outer corners of the permitted areas, the boundaries of which are straight lines, and the spectrum locus.				

**Table 2. Colorimetric Specification (CIELAB Coordinates)**

1	Minimum $L^*$		$C^*_{ab}$	$h_{ab}$	
	2	3	4	5	6
Region	Background Material	Combined-performance Material	Minimum	Minimum	Maximum
CL1	90	85	85	85	118
CL2	75	75	85	35	80

#### 4.3 Retroreflective Photometric Performance

##### 4.3.1 Unabraded Performance

When tested by the method described in Appendix D, both unabraded retroreflective material and unabraded combined-performance material shall meet the following conditions:

(a) The effective photometric performance calculated as described in D3.5 shall be not less than the appropriate value specified in Table 3.

(b) For each of the four observation angles specified in Table 3, the coefficient of retroreflection at any one of the four entrance angles shall be not less than 30 per cent of the calculated effective photometric performance value specified. An orientation-sensitive material shall comply with this requirement at both of the orientations described in D3.3 and before the calculation of arithmetic mean.

**Table 3. Minimum retroreflective photometric material**

Observation angle	minimum effective photometric performance calculated as described in clause d3.5	
	Separate-Performance Material	Combined-Performance Material
0° 12'	cd.lx <sup>-1</sup> .m <sup>-2</sup> 60	cd.lx <sup>-1</sup> .m <sup>-2</sup> 10
0° 20'	20	3
1°	3	1
2°	2	0.5

#### 4.3.2 Abraded Performance

When tested by the method described in Appendix D the coefficient of retroreflection measured at 5° entrance angle and 0° 12' observation angle of materials which have been abraded by the procedure described in Appendix C shall be not less than 100 cd.lx<sup>-1</sup>.m<sup>-2</sup> for retroreflective material and not less than cd.lx<sup>-1</sup>.m<sup>-2</sup> for combined-performance materials. If the unabraded material is orientation-sensitive, as described in D3.3, the coefficient for this purpose shall be the arithmetic mean of the coefficients at the best and the worst orientations of the abraded material.

### 4.4 Wet Performance

#### 4.4.1 Wet Colorimetric Performance

When measured by the method described in Appendix E, either the luminance factor, Y, or the lightness L\* of the specimen shall be not less than 50 per cent of the appropriate value specified in Table 1 or Table 2.

#### 4.4.2 Wet Retroreflective Photometric Performance

When the material is tested by the method described in Appendix F, the coefficient of retroreflection at 5° entrance angle and 0° 12' observation angle shall be not less than 100 cd.lx<sup>-1</sup>.m<sup>-2</sup> for separate-performance retroreflective material and not less than 15 cd.lx<sup>-1</sup>.m<sup>-2</sup> for combined-performance material.

### 4.5 Colour Fastness and Photometric Stability

#### 4.5.1 General

The ratings of background materials and combined-performance materials, when tested in accordance with the appropriate method given in Table 4 shall be not less than the minimum values listed in the table.

The garment shall not be subjected to the washing test if any of the washing conditions, specified on the garment label, is less severe than the corresponding condition specified in KS 08-123<sup>(3)</sup>.

The garment shall not be subjected to the dry cleaning test if it is labelled as not suitable for dry cleaning in

tetrachloroethylene.

The wet and dry rubbing tests shall not be applied to any garment within 4 weeks of manufacture.

**Table 4. Colour Fastness**

Agency and test method	Result	Minimum rating		
		Non-coated materials	Coated material	Polymeric sheet
Light KS 08-359 <sup>(1)</sup>				4
Light KS 08-869 <sup>(2)</sup>		4	4	
Washing (if applicable) KS 08-123 <sup>(3)</sup>	Change in shade staining	4	4	
Dry cleaning (if applicable) KS 08-122 <sup>(4)</sup>	Change in shade staining	4	4 4	4 4
Perspiration KS 08-125 <sup>(5)</sup>	Change in shade staining	3 3	3 3	3 3
Rubbing (wet and dry) Rubbing (wet and dry) part 9 KS 08-266 <sup>(6)</sup>		4	4	

#### **4.5.2 Retroreflective and Combined-performance Materials**

Retroreflective material and combined-performance material shall be capable of being cleaned by either a wet or a dry process as described in KS 08-68<sup>(7)</sup> such that the dry coefficient of retroreflection at 5° entrance angle and 10°-12' observation angle, as described in Appendix D, shall not be reduced by more than 25 per cent.

### **5. Construction of Garments**

#### **5.1 General**

5.1.1 Material type garments and accessories shall incorporate either combined-performance material or both types of separate-performance material. The materials used shall comply with 4.

#### **5.1.2 Reduction of Effectiveness of Material**

If the means of incorporating the material into the garment or accessory either obscures part of the material or degrades its optical performance, then only that part which is fully visible shall be counted within the dimensions specified in this clause. The values of the optical performance to be used for establishing the minimum permitted dimensions of the material shall be the degraded values.

#### **5.1.3 Detachable Parts**

Parts of garments or accessories the detachment of which would reduce any property below the minimum specified in this standard for the appropriate class of garment shall not be detachable.



## 5.2 Class A and Class B Garments

**Note 4:** Typical Class A and B garments would be coats, jackets with sleeves, waistcoats and tabards.

### 5.2.1 Garments Manufactured from Separate-performance Materials

Part of the total exposed surface area of garment shall consist of background material complying with the appropriate section of either Table 1 or Table 2. The minimum total area of such material, excluding sleeves, shall be determined in accordance with Table 5.

One band of such background material at least 100 mm wide, or multiple bands of the same total width, shall encircle the body between chest and waist height. Any gap in the lengthwise continuity of each such bands shall not be greater than 50 mm measured parallel to the direction of the band, and the total of such gaps shall not be greater than 100 mm in any one band.

Part of the total exposed surface area of the garment shall consist of retroreflective material complying with the appropriate section of Table 3. The minimum total area of such material, excluding sleeves, shall be determined in accordance with Table 6.

One band of such retroreflective material at least 50 mm wide, or multiple bands of the same total width, shall encircle the body between chest and waist height. Any gap in the lengthwise continuity of each such band shall not be greater than 50 mm, measured parallel to the direction of the band, and the total of such gaps shall not be greater than 100 mm in any one band. For Class B items, if the lengthwise continuity of any such band is broken forming lengthwise section, no such section shall be displaced out of the line of the band.

In addition, Class A items shall have sleeves longer than 300 mm, which incorporate bands of material such that the part of each sleeve within 150 mm of the cuff complies with 5.3.

**Note:** Further information is given as recommendations in **Appendix C**.

### 5.2.2 Garments Manufactured from Combined-performance Material

Part of the total exposed surface area of the garment shall consist of combined-performance material complying with the appropriate section of either Table 1 or Table 2 and with the appropriate section of Table 3.

The minimum total area of such material, excluding sleeves, shall be determined in accordance with Table 5.

One band of such material at least 150 mm wide, or multiple bands of the same total width shall encircle the body between chest and waist height. Any gap in the lengthwise continuity of each such band or bands shall not be greater than 50 mm measured parallel to the direction of the band and total of such gaps shall not be greater than 100 mm in any one band. For Class B items, if the lengthwise continuity of any such band is broken forming lengthwise section, no such section shall be displaced out of the line of the band.

In addition, Class A items shall have sleeves longer than 300 mm which incorporate bands of material such that the part of each sleeve within 150 mm of the cuff complies with 5.3.

## 5.3 Class C Armband and Legbands

### 5.3.1 Armbands and Legbands Manufactured from Separate-performance Materials — One band or multiple bands of the same total width of background materials, complying with the appropriate section of table 1 or Table 2, shall encircle the arm or leg.

There shall be not more than one gap in the lengthwise continuity of each such band or bands and such gap shall not be greater than 20 mm measured parallel to the direction of the band. The minimum total width of such material encircling each arm or leg shall be determined in accordance with Table 5.

One band, or multiple bands of the same total width, of retroreflective material complying with the appropriate section of Table 3 shall encircle the arm or leg. There shall be not more than one gap in the

lengthwise continuity of each such band or bands and such gap shall not be greater than 20 mm measured parallel to the direction of the band. The minimum total width of such material encircling each arm or leg shall be determined in accordance with Table 6.

**Table 5. Minimum Quantities Of Background Material (Class A, B And C Items) And Combined-Performance Material (Class A And B Items Only)**

Colorimetric performance of material		Minimum total exposed area on torso		Minimum total width	
1	2	3	4	5	6
Luminance Factor $\bar{Y}$ as Specified in 4.2	Lightness $L^*$ Specified in 4.2	Class A Coats, etc. (torso only)	Class B Waistcoats, etc.	Class C Armbands and Legbands and Class A Sleeves	Class C Shoulder Belts
<input type="checkbox"/> 50 <input type="checkbox"/> 60 <input type="checkbox"/> 70 <input type="checkbox"/> 80	<input type="checkbox"/> 75 <input type="checkbox"/> 80 <input type="checkbox"/> 85 <input type="checkbox"/> 90	$m^2$ 1.00 0.90 0.72 0.60	$m^2$ 0.67 0.60 0.48 0.40	mm 140 100 90 80	mm - 50 45 40

**Table 6: Minimum quantities of retroreflective Material**

Effective photometric at 0° 12' observation angle, as defined in d3.5	Minimum total exposed area on torso		Minimum width	
	Class A Coats, etc.	Class B Waistcoats, etc.	Class C Armbands Legbands and Class A Sleeves	Class C Shoulder Belts
1	2	3	4	5
$cd.1x^{-1}.m^{-2}$ <input type="checkbox"/> 60 <input type="checkbox"/> 95 <input type="checkbox"/> 135 <input type="checkbox"/> 200 <input type="checkbox"/> 265	$m^2$ 0.180 0.130 0.100 0.07 0.060	$m^2$ 0.130 0.095 0.075 0.055 0.045	mm 50 40 30 25 25	mm 25 20 15 15 15

5.3.2 Armbands and Legbands Manufactured from Combined Material — One band or multiple bands of the same total width of material, complying with the appropriate section of either Table 1 or Table 2 and the appropriate section of Table 3, shall encircle the arm or leg. The minimum total width of such material encircling each arm or leg shall be determined in accordance with Table 7.

There shall be not more than one gap in the lengthwise continuity of each such band or bands and such gap shall not be greater than 20 mm measured to the direction of the band.

**Table 7: Minimum quantities of combine-performance material (class c items and class a sleeves)**

Colorimetric performance		Retroreflective performance		Minimum width
1	2	3	4	5
Luminance	Lightness $L^*$ as	Effective	Armbands and	Shoulder

Factor Y as Specified in 4.2	Specified in 4.2	photometric Performance at 0° 12' Observation Angle as Defined in D3.5	Legbands and Sleeves	Belts
□ 60	□ 80	cd.1x <sup>-1</sup> .m <sup>-2</sup> 10 20 30	mm 300 150 100	mm 150 75 50
□ 70	□ 85	10 20 30	300 150 90	150 75 45
□ 80	□ 90	10 20 30	300 150 75	150 75 40
NOTE: Although the table provides for shoulder belts wider than 75 mm they may be impracticable to manufacture.				

## 5.4 Class C Shoulder Belts

### 5.4.1 Should Belts Manufactured from Separate-Performance Materials

One band or multiple bands of the same total width of background material, complying with the appropriate section of either Table 1 or Table 2, shall encircle the body between chest and waist height. Any gap in the lengthwise continuity of each such band or bands shall not be greater than 50 mm measured parallel to the direction of the band, and the total of such gaps shall not be greater than 100 mm in any one band. A similar band or bands of material complying with the same requirements shall pass over one shoulder linking front and rear of the chest/waist band. There shall be not more than one gap in the lengthwise continuity of each such shoulder band and such gap shall be not greater than 50 mm measured parallel to the direction of the band. The minimum total width of the chest/waist band or bands and that of the shoulder band or bands shall each be determined in accordance with Table 5.

One band or multiple bands of the same total width of retroreflective material, complying with the appropriate section of Table 3, shall encircle the body between chest and waist height. Any gap in the lengthwise continuity of each such band or bands shall not be greater than 50 mm measured parallel to the direction of the band, and the total of such gaps shall not be greater than 100 mm in any one band. A similar band or bands of material shall pass over one shoulder linking front and rear of the chest/waist band. There shall be not more than one gap in the lengthwise continuity of each such shoulder band and such gap shall not be greater than 50 mm measured parallel to the direction of the band. The minimum total width of the chest/waist band or bands and that of the shoulder band shall each be determined from Table 6.

### 5.4.2 Shoulder Belts Manufactured from Combined-Performance Material

One band or multiple bands of the same total width of combined-performance material, complying with the appropriate section of either Table 1 or Table 2 and with the appropriate section of Table 3, shall encircle the body between chest and waist height, and similar band or bands of material complying with the same requirements shall pass over one shoulder linking front and rear of the chest/waist band.

Any gap in the lengthwise continuity of each such band or bands shall not be greater than 50 mm measured parallel to the direction of the band, and the total of such gaps shall not be greater than 100 mm in any one band. The minimum total width of the chest/waist band and that of the shoulder band shall each be determined in accordance with Table 7.

6. Labelling

Garments shall be durably and legibly labelled with the following:

- (i) The name or identification of the manufacturer.
- (ii) Cleaning instructions complying with KS 08-68<sup>(7)</sup> and 4.5.
- (iii) The class and level of conspicuity using one of the three following forms of words as appropriate:

Class A High Visibility aid

This garment provides the highest level of conspicuity specified in KS 08-1149<sup>(7)</sup>.

Class B High Visibility aid

This garment provides the intermediate level of conspicuity specified in KS 08-1149<sup>(8)</sup>.

Class C High Visibility aid

This accessory provides the lowest level of conspicuity specified in KS 08-1149.

## **Annex A**

### **Guidance for the use of garments and accessories**

Class A garments provide the wearer with a significantly higher level of conspicuity than Class B garments and these in turn provide considerably higher conspicuity than Class C accessories. For this reason Class A garments should be selected wherever conditions allow their use. In particular, those wearers likely to be exposed to relatively high risk (for example pedal cyclists or motor cyclists) should wear Class A garments, and those exposed to particularly severe risk (for example traffic police officers or road workers) should consider wearing garments the performance of which is significantly better than the minimum specified for Class A.

The requirements for retroreflective performance in this standard are based upon typical positions for headlamps and drivers of vehicles, and upon typical positions for pedestrian and cyclist wearers, on public roads, railways and factory roadways. Articles complying with this standard are not necessarily suitable if the situation of lamps or observer or target differs significantly from these. Examples might be marine situations, or airfields, where specialist advice should be sought, or horseriders, who should ensure that substantial areas of retroreflective material are positioned within 1.5 m of the road surface. Use of garments or accessories complying with this standard does not free the wearer from the normal duty to take all reasonable care.

## **Annex B**

### **Method for measuring colour**

#### **B1. Principle**

Measurements of tristimulus values are made. These values are converted into coordinates in either of the following systems:

- (a) the CIE 1931 system, in which a colour is specified by its chromaticity coordinates (symbols  $x$ ,  $y$ ) and its luminance factor (symbol  $Y$ ): or
- (b) the CIELAB system, in which a colour is specified by its polychromatic lightness (symbol  $L^*$ ), chroma (symbol  $C^*_{ab}$ ) and hue angle (symbol  $h_{ab}$ ).

## **B2. Apparatus**

The apparatus consists of a spectrophotometer or other instrument with one spectral analysing unit using polychromatic radiation simulating CIE Standard Illuminant D65 in incident on the sample.

## **B3. Procedure**

If the specimen is to be tested for its dry performance, first subject it to the abrasion procedure described in Appendix C. Take the specimen in either a dry abraded condition or wet unabraded condition and mount it in the measuring instrument as a single layer of material, including any backing or lining used in its construction, and backed by a neutral material of near zero reflectance. Measure the colorimetric tristimulus values of the central area of the specimen using any one of the following four illuminating and viewing conditions excluding any specular component: diffuse/normal, normal/diffuse, 45°/normal, normal/45°.

## **B4. Expression of results**

Express the colour coordinates of the specimen either as chromaticity coordinates and luminance factor under the CIE 1931 system, or as psychometric lightness, chroma and hue under the CIELAB system as described in Recommendation 2 and 3 of supplement No. 2 to CIE Publication 15, 1971. Use the CIE Standard Observer 2° data.

# **Annex C**

## **Abrasion procedure**

### **C1. Principle**

A specimen of the material is scrubbed against a standard abrasive surface by machine. The normal positions of specimen and abrasive are reversed because, usually, the abrasive area is large and the specimen small, which would provide insufficient abraded material for testing.

### **C2. Apparatus**

The apparatus consists of an abrasion machine complying with Class 4 of KS 08-119<sup>(9)</sup>.

### **C3. Procedure**

Mount the specimen in the position normally used for the abrasive fabric, and the abrasive fabric in the position normally used for the specimen. Subject the specimen to 5 000 rubs by the procedure described in KS 08-119 using the 9 KN·m<sup>-2</sup> setting. Note: For measurements of the properties of the abraded specimen the central portion of the abraded area is used.

# **Annex D**

## **Method for determining retroreflective photometric performance**

### **D1. Principle**

The coefficient of retroreflection of a specimen is measured at each of sixteen combinations of entrance angle and observation angle. The specimen is also rotated in its own plane to allow for sensitivity to orientation. To simulate the overall performance of the specimen on a curved surface an effective photometric performance is calculated for each observation angle. For some measurements the front of the specimen is continually sprayed with water to simulate the optical effect of a coating of raindrops.

## **D2. Apparatus**

The apparatus consists mainly of an optical bench with provision for measurements of retroreflection using various entrance and observation angles, and provision for rotating the specimen under test in its own plane. Additional apparatus for wet testing is described in Appendix F.

## **D3. Procedure**

### **D3.1 Specimens**

Select specimens of the material each of which is flat and is large enough to contain a square of 50 mm.

Note: The orientation of the specimen in the plane of the material may be important (see D3.3).

D3.2 Throughout this procedure, measure retroreflection as described in CIE Publication No. 54 (TC.2.3), 1982, using coplanar entrance and observation angles and keeping the direction of observation between the incident beam and the normal at the point of incidence.

### **D3.3 Orientation Sensitivity**

Using the equation given in D3.2, observe the coefficient of retroreflection  $R'$  of a single specimen using  $5^\circ$  entrance angle and  $0^\circ 12'$  observation angle, while rotating the specimen through  $360^\circ$  in its own plane. During this rotation, note the maximum and minimum values of the coefficient and the two orientations at which these values occur. If the maximum value is less than 120 per cent of the minimum, treat the material from which the specimen is drawn as not orientation-sensitive, otherwise follow the full procedure for orientation-sensitive materials for each specimen.

Determine the coefficient of retroreflection  $R'$  at each of the sixteen test positions described in D3.4, using the equation given in D3.2.

If the material is not orientation-sensitive, determine coefficient at each test position by a single measurement.

If the material is orientation-sensitive, determine the coefficient at each position as the mean of two measurements taken at the orientations which gave maximum and minimum values when the coefficient of that specimen was observed at  $5^\circ$  entrance angle and  $0^\circ 12'$  observation angle.

Note: These orientations will not necessarily give the maximum and minimum coefficients at other combinations of entrance angle and observation angle.

### **D3.4 Test Positions**

Determine the coefficient of retroreflection  $R'$  as described in D3.3 at each of the sixteen test positions defined by using each of the following four observation angles:  $0^\circ 12'$ ,  $0^\circ 20'$ ,  $1^\circ$  and  $2^\circ$  at each of the following four entrance angles:  $5^\circ$ ,  $10^\circ$ ,  $20^\circ$  and  $30^\circ$ .

### **D3.5 Calculated Effective Photometric Performance**

For each observation angle calculate the effective photometric performance  $epp$  in  $\text{cd} \cdot 1\text{x}^{-1} \cdot \text{m}^{-2}$  from the following equation:

$$epp = 0.1 CR_5 + 0.2 (CR_{10} + CR_{20} + CR_{30})$$

where,

$CR_x$  is the coefficient of retroreflective  $R'$  at  $X^\circ$  entrance angle as described in D3.4.

Note: This calculation has been found to give a satisfactory correlation with the coefficient of retroreflection observed when the same specimen is mounted not flat but on a curved mandrel simulating a typical curve of the human body.

## **Annex E**

### **Method for measuring wet colorimetric performance**

#### **E1. Principle**

Either the luminance factor or the lightness of a specimen is observed when it is wet with simulated rainwater.

#### **E2. Procedure**

Place the specimen in a container of distilled or deionized water at a temperature of  $20 \pm 5^\circ\text{C}$  such that the specimen remains completely immersed for a continuous period of  $5 \pm 2$  min. Remove the specimen and allow it to drain naturally for a period of  $5 \pm 2$  min. Measure either the luminance factor  $Y$ , or the lightness  $L^*$  as described in Appendix B.

## **Annex F**

### **Method for measuring wet retroreflective performance**

#### **F1. Principle**

Specimen of the material is mounted in a vertical plane and subjected to a continuous spray of water droplets. Measurements are made of the coefficient of retroreflection of the wetted surface while the spray is maintained simulating the optical behaviour of a surface in a shower of rain.

#### **F2. Apparatus**

A suitable apparatus for mounting the specimen in the spray of water is illustrated in Figure 1.

The specimen A is supported on the vertical specimen holder B above a catch through C and drain D. The specimen holder is rigidly attached to the goniometer table (not shown) but is held away from it. The spray nozzle E is rigidly supported in a position which is fixed relative to the specimen and is supplied with tap water at constant but adjustable pressure through a flexible joint for hose. In the apparatus illustrated, the nozzle is one metre from the specimen and is so angled that the spray strikes the specimen at an angle of  $10^\circ$  to the vertical. The specimen, specimen holder, and spray nozzle are enclosed in a cover G designed to protect the optical apparatus from water. Preferably, the cover is made of or incorporate large areas of rigid transparent plastics material for visibility and has at least one removable panel or door for access. A square aperture H of side 150 mm is provided for the light path and a gutter J protects this aperture is painted matt black to reduce stray reflections.

The nozzle consists of an orifice of diameter 5 mm (nominal 0.2 in) with an appropriately designed feed pipe producing a substantially uniform solid cone spray.

3. Calibrate the apparatus for measuring the coefficient of retroreflection, with the wet testing apparatus in place, under both dry and wet conditions and determine a correction for changes in stray light between these two conditions.

Mount a flat, square specimen of the material of side not less than 50 mm in a vertical plane on the vertical specimen holder so that the holder does not protrude beyond the edge of the specimen at any point. If the material is orientation sensitive when dry, as described in D3.3, mount it so that measurements can be made at the orientation which

gave the worst performance when dry. Adjust the nozzle and water supply to subject the specimen to a spray of ordinary tap water such that the whole face of the specimen is within the envelope of the spray, the angle between the surface of the specimen and the water striking it is not less than 5°, and the flowrate striking the specimen is equivalent to a rainfall, in millimetres per hour, of 50/tan  $\alpha$  as measured in a horizontal collector. Maintain the spray in a steady state for at least 2 min before and throughout the measurement.

Measure the coefficient of retroreflection of the specimen at 5° entrance angle and 0°/12' observation angle and, if the material is orientation-sensitive when dry, at the orientation which gave the worst dry performance.

## **Annex G**

### **Recommended disposition of retroreflective material**

After incorporating the specified areas of retroreflective material on a general purpose coat, jacket, waistcoat or tabard manufactured from separate-performance materials as specified in 5.2.1, it is recommended that extra retroreflective material be disposed as follows:

One band at least 50 mm wide or multiple band of the same total width of material, conforming to the appropriate section of Table 3, should pass over each shoulder linking front and rear of the chest/waist band. No break in material continuity should be greater than 100 mm, and the total length of breaks in each band should be not greater than 250 mm.

Further retroreflective material should be applied to the garment at the rear at waist level and also to the front upper chest and round the upper arm areas.

Any retroreflective material which is orientation-sensitive as described in D3.3 should be incorporated in the garment or accessory in the orientation which provides optimum performance.

#### **Titles of publications referred to in this standard**

- (1) Method for determination of colour fastness of textile materials to artificial light (xenon arc).**
- (2) Method for determination of colour fastness of textile materials to daylight.**
- (3) Method for determination of colour fastness of textile materials to washing.**
- (4) Method for determination of colour fastness of textile materials to dry cleaning.**
- (5) Method for determination of colour fastness of textile materials to perspiration.**
- (6) Method for determination of colour fastness of coated fabrics to wet and dry rubbing and determination of resistance to print wear using a common testing apparatus.**
- (7) Textile care labelling code.**
- (8) Specification for optical performance of high visibility garments and accessories for use on the highway.**
- (9) Method for determination of breaking load and elongation (strip method) of woven fabrics.**



## **ASSORTED IEBC RUBBER STAMPS – SPECIFICATION**

### **1 Scope**

This IEBC Standard specifies the requirements and test methods for rubberstamps used during elections and during registration of voters.

### **2 Normative references**

The following standards are indispensable for the application of this standard:

*KS 06-881: Method of test for vulcanized rubber of medium hardness (30 – 85 IRHD (determination of hardness))*

*KS 06-875: Method of test for vulcanized rubber — Determination of the effect of liquids.*

*KS 02-982: Methods of test for determination of physical and mechanical properties of wood*

*Part 1: Moisture content*

*Part 2: Density*

### **3 Terms and definitions**

For the purposes of this standard, the following definitions, and those given below shall apply:

#### **3.1**

##### **IEBC**

Independent Electoral and Boundaries Commission

#### **3.2**

##### **Rubberstamp**

**a device for imprinting** a mark or design on paper

#### **3.8**

##### **registration officer rubberstamp**

a rubberstamp with the words “IEBC REGISTRATION OFFICER.”

### **4 Classification**

Rubberstamps shall be classified according to the following:

- b) The prints on the die face
- c) The shape of the die face

#### **4.1 Prints on the die face**

Rubberstamp shall be of the following type:

- a) "Registration Officer"
- b) IEBC
- c) Returning Officer
- d) County Returning Officer
- e) Presiding Officer
- f) **IEBC Rejected**
- g) **IEBC Rejection Objected**
- h) **IEBC Disputed**
- i) IEBC Spoilt

#### **4.2 Shape of the die face**

Rubberstamp shall be of the following type:

- c) Mono-circular
- d) Di-circular.

### **5 Requirements**

**5.1** The rubberstamp shall consist of two parts, the stamp die and the handle.

#### **5.2 Material**

##### **5.2.1 Stamp die**

**5.2.1.1** The vulcanized rubber used in the manufacture of the die shall comply with the requirements given in Table 1.

**Table 1 — Requirements for stamp rubber**

SL NO	Characteristic	Requirement	Test method
-------	----------------	-------------	-------------

(i)	Hardness (IRHD)	50 - 60	KS 06-881
(ii)	Density, g/cm <sup>3</sup>	1.5500 – 1.6600	Annex A

**5.2.1.2** When tested in accordance to KS 06-875, the rubberstamp die shall not show any changes in hardness, density, volume or any other observable change.

## **5.2.2 Stamp handle**

**5.2.2.1** The stamp handle shall be made from machined softwood with similar properties to cypress wood.

**5.2.2.2** The wood used in making the handle shall have the properties given in Table 2.

**Table 2 — Requirements for wood used to make stamp handle**

SL NO	Characteristic	Requirement	Test method
(i)	Moisture content	Max. 20 %	KS 02-982: Part 1
(ii)	Density	0.450 - 0.500 g/cm <sup>3</sup> (at moisture content of $\leq 20$ %)	KS 02-982: Part 2

## **5.3 Construction**

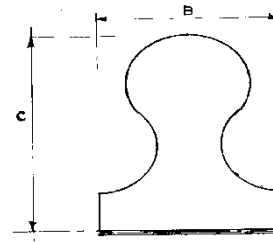
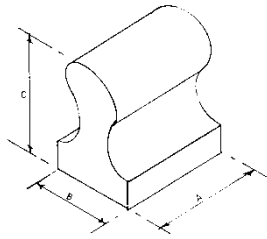
The construction of the rubberstamp shall be as shown in Figure 1.

### **5.3.1 Handle**

**5.3.1.1** The handle shall have a height of  $45 \pm 2$  mm.

**5.3.1.2** The faces and edges of the handle shall be smooth.

**5.3.1.3** The typical shape of the rubberstamp handle shall be as shown in Figure 1 a) and b).



a) Pictorial view (Dimensions: A = B= 50mm;

b) End elevation (C= 45 mm)  
c. outer diameter of die face= 46mm

**Figure 1 — typical shape of rubberstamp handle**

**5.3.1.4** The dimensions of the handle face for the Registration Officer rubberstamp shall measure at least 15 mm × 50 mm (see Figure 2).

**5.3.1.5** The handle shall be engraved with the word “TOP” in a place that is clearly visible in order to guide the user on the correct positioning of the stamp when using it.

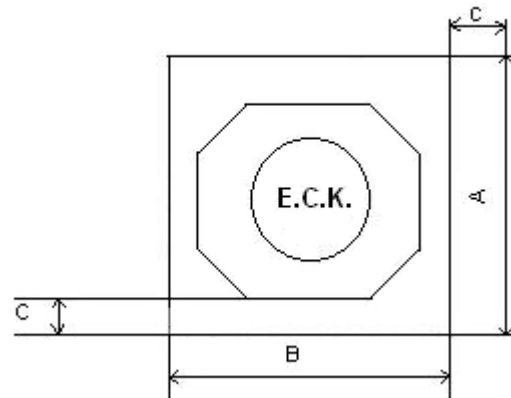
### **5.3.2 Stamp Die**

**5.3.2.1** The letters on the rubberstamps shall be machine-engraved so as to give a clear and sharp impression when visually examined.

**5.3.2.2** The stamp die shall be at least 2 mm clear from the edge of handle face as shown in Figures 3 a) and b).

**5.3.2.3** The letters on the rubber shall be machine-engraved with a minimum depth of 1 mm and shall give a clear and sharp image when stamped.

**5.3.2.4** The stamp die shall be circular in shape, a typical example of the circular stamp face is shown below



## Figure 2 — Typical shape of the stamp die for rubberstamp

- a) Rubberstamp with circular stamp face. Dimensions: A = B=50mm;
- b) C = 2 mm

**5.3.2.5** The die shall be mounted strongly to the wooden face with a minimum delimitation strength of 15 N when tested in accordance with Annex B.

### 5.3.3 Font style

**5.3.3.1** The font style used in engraving the letters on the rubberstamps shall be arial.

**5.3.3.2** The engraved fonts shall be made to fit the specified dimensions given in figure 2.

## 6 Packaging

**6.1** Rubberstamps shall be packed in suitable packages, which shall protect them from damage during transportation and storage.

**6.2** Rubberstamps of the same type shall be packed in the same package.

**6.3** Ten (10) rubberstamps shall be packed in a packet.

**6.4** Fifty (50) packets shall be packed in a secondary pack

**6.5** The following information shall appear legibly marked on each package:

- a) the words “IEBC.”;
- b) the words “Confidential material”;
- c) type of the rubberstamp e.g. “IEBC REGISTRATION OFFICER” rubberstamp;
- d) number of rubberstamps.

## Annex A (normative)

### Determination of the density of rubber

#### A.1 Scope

To determine the rubber density by the immersion method.

#### A.2 Apparatus

The following apparatus are required for the test:

**A.2.1 Balance**, with an error limit of 0.000 1 g;

**A.2.2 Density hydrometer**, with scale graduations of 0.000 5 g/cm<sup>3</sup>.

### **A.3 Test media**

#### **A.3.1 Test liquid**

Distilled water or other suitable liquid, which may contain up to 0.1 % wetting agent for removal of air bubbles.

### **A.4 Procedure**

**A.4.1** Determine the density of the test liquid  $\rho_F$  using the density hydrometer.

**A.4.2** Weigh the specimen suspended with a thin wire (diameter: maximum 0.125 mm). Record as  $m_1$ .

**A.4.3** Immerse the test specimen in test liquid and again weigh as  $m_2$

Note 1: Care should be taken to ensure that no air bubbles adhere to the specimen. If the specimen has a lower density than the test liquid, a sinker, e.g. a lead weight, should be attached with the specimen to a thin wire and immersed in the test liquid and both weighed together. The mass of the sinker when weighed in air and in test liquid must be deducted from the masses  $m_1$  and  $m_2$ . The displacement produced by the sinker must be taken into account.

### **A.5 Evaluation of results**

The density is 
$$\rho = \frac{m_1 \times \rho_F}{m_1 - m_2}$$

where

$m_1$  is the mass in g of the specimen weighed in air;

$m_2$  is the mass in g of the specimen, less the mass of the displacement liquid (weighing of specimen in liquid);

$\rho_F$  is the density of the test liquid in g/cm<sup>3</sup>.

## Determination of delaminating strength

### B.1 Scope

To test the bonding strength of the rubber to the handle.

### B.2 Principle

The peeled rubber portion is gripped in the moving jaws and the handle is gripped in the fixed jaws of a tensile testing machine of suitable capacity. The jaws are separated further and a record of force required to separate the two is obtained on a graph. The mean force is calculated from the three highest forces recorded.

### B.3 Apparatus

The testing machine shall meet the following requirements:

**B.3.1** The machine shall provide means of indicating the maximum and minimum load applied in separating the rubber from the handle. The loads shall be indicated clearly and continuously on a chart with the chart moving at the same speed as the moving jaws.

**B.3.2** The machine shall be capable of separating the handle and the rubber at a constant rate of jaw separation of  $305 \pm 10$  mm/min.

### B.4 Preparation of test specimen

Peel out the rubber from the handle to a maximum of 40 % of the glued length to give a sizable grip portion by the machine jaw.

### B.5 Procedure

**B.5.1** Adjust the machine to operate in the manner prescribed in B.3 and set the jaws so that at the commencement of each test, the distance between the jaws is 20 mm.

**B.5.2** Clamp the handle of the rubberstamp to the moving jaw and the handle to the fixed jaw.

**B.5.3** Set the machine in motion, and record on a graph the force required to separate the components.

**B.5.4** Repeat the test procedure for the other specimens.

### B.6 Calculation and expression of results

**B.6.1** Examine the chart and record in newtons the force corresponding to the highest peaks. Record the calculated mean of these values for each test.

**B.6.2** Calculate the delamination strength in newtons using the following formula:

$$\text{Delamination strength} = \frac{A + B + C}{3}$$

where

$A$  is mean of specimen 1;

$B$  is mean of specimen 2;

$C$  is mean of specimen 3.



# Tamper proof envelope — Specification

## 1 Scope

This IEBC Standard specifies the requirements and test method for tamper proof envelope .

## 2 Normative references

The following documents are indispensable for the application of this standard: for the dated references only edition cited applies. For undated references, the latest edition of the reference document (including amendments) applies.

ISO 6383-2, *Plastics – Film and sheeting –Determination of tear resistance - Part 2:Elmendorf method*

ASTM D792 - 13, *Standard Test Methods for Density and Specific Gravity (Relative Density) of Plastics by Displacement*

ISO 216, *Writing paper and certain classes of printed matter -- Trimmed sizes -- A and B series, and indication of machine direction*

## 3 Definitions

For the purpose of this standard, the following definitions shall apply;

### 3.1

#### **IEBC**

Independent Electoral and Boundaries Commission

### 3.2

#### **tamper proof envelope**

a pressure sensitive plastic material made of polyester film used for protecting documents from being tampered with or damaged during storage or transportation.

### 3.3

#### **laminating film**

a pressure sensitive coating of polyvinyl chloride or any other suitable material on the plastic surface that bonds with the product being laminated.

### 3.4

#### **lamination**

fusing of two thin layers of pressure sensitive surfaces of the envelope for protection of its contents from being interfered with.

### 3.5

#### **tamper proof**

an indicator or barrier to entry which, if interfered with or missing, can readily provide visible evidence that interference has occurred after lamination.

## 4 Requirements

#### 4.1 Physical and dimensional requirements

The tamper proof envelope shall comply with the physical and dimensional requirements given in table1.

**Table 1 — Physical and dimensional requirements of the tamper proof envelope**

Characteristic	Requirement	Test method
a) Dimensions ,mm , $\pm 1$	A4 (229 x 324) or A3 (324 x 458)	ISO 216
b) Thickness in mm, $\pm 0.5\%$		
i) Each piece	0.06	Annex A
ii) Total thickness(seam)	0.25	
b) Density/cm <sup>3</sup>	0.90-0.91	ASTM D 792-13
c) Tensile strength, mPa min.	27.5	KS ISO 6383-2
d) Tear force N, min.	2	KS ISO 6383-2

#### 4.2 Laminating film

The plastic film shall be pressure sealable and shall show evidence if interfered with after lamination and shall meet the requirements given in Table 1.

#### 4.3 Finish

The tamper proof envelope shall be rectangular in shape, free from sharp edges and flaws when examined visually.

#### 4.4 Branding

The Tamper proof envelope shall have;

- a) IEBC logo;
- b) postal address;
- c) provision of horizontal ruled lines for indicating the contents;

- d) words, "IEBC CONFIDENTIAL MATERIAL".. at the bottom centre in red colour;

## **5 Packaging and marking**

### **5.1 Packaging**

**5.1.1** The tamper proof envelope shall be packed in units of 100 per packet.

**5.1.2** Bulk packages shall contain 50 packets.

### **5.2 Marking**

**5.2.1** Each bulk package shall be legibly and indelibly marked with the following information:

- a) manufacturer's name and address
- b) registered trademark if any;
- c) instructions for correct use and disposal;
- d) country of origin;
- e) date of manufacture and the shelf life.

**5.2.2** Each tamper proof shall be legibly and indelibly marked at the back side with the following information:

- a) address of IEBC
- b) all other information specified by IEBC

**Annex A**  
(normative)

**Determination of thickness**

**A.1 Apparatus**

**A.1.1 A dead weight dial micrometer**, with a flat anvil of 6 mm diameter or larger in area and 4.8 mm diameter flat surface on the head of the spindle, or a sprint micrometer which has been calibrated against a dead weight dial micrometer shall be used. In case of a dispute only the deadweight dial micrometer shall be used and the reading shall be taken between 15 s and 2 min after the load is applied.

**A.1.2** This method is capable of producing measurements with a maximum error of a 0.000 25 cm.

**A.2 Specimens**

Test 5 specimens of at least 5 cm x 5 cm in area, taken uniformly across the test piece.

**A.3 Procedure**

Clean and dry the anvil and the spindle head, and the specimen. Place the specimen on the anvil and lower the spindle head on it slowly. The total load applied by the spindle shall be 110 g. Make one measurement on each specimen. Take the mean of the measurements of all the specimens of a sample to obtain the average thickness of the sample.

## 1. List of Goods and Delivery Schedule

*[The Procuring Entity shall fill in this table, with the exception of the column “Tenderer's offered Delivery date” to be filled by the tenderer]*

Line Item Nº	Description of Goods	Quantity to Supplied Annually	Physical unit	Final Destination as specified in TDS	Delivery(as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Tenderer’s offered Deliver date <i>[to be provided by the tenderer]</i>
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied] (Minimum) Quantities are ordered and supplied (as and when required)</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>
1.	<b>A4 Tamperproof Envelope</b>	5 Pieces	Pieces	Nairobi, Industrial Area, LikoniRoad	As and When Required	Within 30 days ofLPO	
2.	<b>A3 Tamperproof Envelope</b>	5 Pieces		Nairobi, Industrial Area, LikoniRoad			
3.	<b>Hacksaw Blade</b>	5 Pieces		Nairobi, Industrial Area, LikoniRoad			
4.	<b>IEBC Branded (Greenish - Yellow) Reflective Jackets</b>	5 Pieces		Nairobi, Industrial Area, LikoniRoad			
5.	<b>Assorted IEBC Rubber Stamps</b>	9 Pieces Each		Nairobi, Industrial Area, LikoniRoad			



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

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## **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 Supplier, 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 Supplier 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 Supplier 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 Supplier 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 Supplier 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 Supplier.
- l) “Supplier” 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**

- 31 The supplier shall comply with anti-corruption laws and guidelines and the prevailing sanctions, policies and procedures as set forth in the Laws of Kenya.
- 32 The Supplier 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**

- 4.3.1 The Contract constitutes the entire agreement between the Procuring Entity and the Supplier 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 Supplier 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 Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

#### **6. Joint Venture, Consortium or Association**

6.1 If the Supplier 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 Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier 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**

81 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.

82 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 Supplier 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 Supplier 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 Supplier 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:

10.1 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.

- 102 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.
- 103 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.
- 104 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.
- 105 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.
- 106 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.
- 107 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.
- 103 **Arbitration Proceedings**
- 101 Arbitration proceedings with national suppliers 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
- 102 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 Suppliers**

1041 Arbitration with foreign suppliers 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 Supplier any monies due the Supplier.

**11. Inspections and Audit by the Procuring Entity**

11.1 The Supplier 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 Supplier 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 Supplier'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 delivery of the Goods and completion of the Related Services shall be in accordance with the List of Goods and Delivery Schedule specified in the Supply Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.

## **14. Supplier's Responsibilities**

14.1 The Supplier 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 Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier 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 supplier 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:  $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$ .

## **16. Terms of Payment**

16.1 The Supplier shall request for payment by submitting invoice(s), delivery note(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 Supplier, and after the Procuring Entity has accepted it.
- 163 Where a Procuring Entity rejects Goods and Related Services, in part or wholly, the procuring Entity  
shall promptly inform the Supplier to collect, replace or rectify as appropriate and give reasons for  
rejection. The Supplier shall submit a fresh invoice, delivery note and any other relevant documents  
as specified in the SCC.
- 164 The currencies in which payments shall be made to the Supplier under this Contract shall be those in  
which the Tender price is expressed.
- 165 In the event that the Procuring Entity fails to pay the Supplier any payment by its due date or within  
the period set forth in the SCC, the Procuring Entity may pay to the Supplier interest on the amount  
of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been  
made in full, whether before or after judgment or arbitration award.

## **17. Taxes and Duties**

- 17.1 The Supplier 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 Supplier in  
Kenya, the Supplier shall inform the Procuring Entity and the Procuring Entity shall use its best  
efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

## **18. Performance Security**

- 18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the  
notification of contract award, provide a performance security for the performance of the Contract in  
the amount specified in the SCC.
- 18.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation  
for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the  
currency(ies) of the Contract, or in a freely convertible currency acceptable to the Procuring Entity;  
and shall be in one of the formats stipulated by the Procuring Entity in the SCC, or in another format  
acceptable to the Procuring Entity.
- 18.4 The Performance Security shall be discharged by the Procuring Entity and returned to the Supplier  
not later than thirty (30) days following the date of Completion of the Supplier's performance  
obligations under the Contract, including any warranty obligations, unless specified otherwise in the  
SCC.

## **19. Copyright**

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

## **20. Confidential Information**

20.1 The Procuring Entity and the Supplier 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 Supplier may furnish to its Sub-Supplier such documents, data, and other information it receives from the Procuring Entity to the extent required for the Sub-Supplier to perform its work under the Contract, in which event the Supplier shall obtain from such Sub-Supplier undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Procuring Entity shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier 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 Supplier 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.

## **21. Subcontracting**

21.1 The Supplier 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 Supplier 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.

## **22. Specifications and Standards**

### **22.1 Technical Specifications and Drawings**

- a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- b) The Supplier 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.

## **23. Packing and Documents**

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Procuring Entity.

## **24. 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.

## **25. 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 Supplier 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 Supplier of any warranty obligations under this Contract; and
- e) training of the Procuring Entity's personnel, at the Supplier'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 Supplier 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 Supplier for similar services

## **26. Inspections and Tests**

26.1 The Supplier 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 Supplier 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 Supplier 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 Supplier 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 Supplier 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.
- 26.5** The Procuring Entity may require the Supplier 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 Supplier'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 Supplier'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 so affected.
- 26.6** The Supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.
- 26.7** 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 Supplier 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.
- 26.8** The Supplier 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 Supplier from any warranties or other obligations under the Contract.

## **27. Liquidated Damages**

- 27.1** Except as provided under GCC Clause 32, if the Supplier 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.

## **28. Warranty**

28.1 The Supplier 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 Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier 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 Supplier 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 Supplier to inspect such defects.

28.5 Upon receipt of such notice, the Supplier 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 Supplier 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 Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract.

## **29. Patent Indemnity**

29.1 The Supplier 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 Supplier 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 Supplier, pursuant to the Contract.

292 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 Supplier a notice thereof, and the Supplier 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 Supplier 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 Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

295 The Procuring Entity shall indemnify and hold harmless the Supplier 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 Supplier 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.

### 30. Limitation of Liability

301 Except in cases of criminal negligence or willful misconduct,

a) the Supplier 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 Supplier to pay liquidated damages to the Procuring Entity, and

b) the aggregate liability of the Supplier 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 supplier to indemnify the Procuring Entity with respect to patent infringement.

### **31. 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 Supplier 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.

### **32. Force Majeure**

32.1 The Supplier 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.

32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. 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.

32.3 If a Force Majeure situation arises, the Supplier 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 Supplier 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.

### **33. Change Orders and Contract Amendments**

33.1 The Procuring Entity may at any time order the Supplier 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 Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;
- b) the method of shipment or packing;
- c) the place of delivery; and
- d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier'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 Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Procuring Entity's change order.

33.3 Prices to be charged by the Supplier 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 Supplier for similar services.

33.4 Value Engineering: The Supplier 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 Supplier 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 Supplier 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.

#### **34. Extensions of Time**

- 341 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier 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 Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier'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 Supplier in the performance of its Delivery and Completion obligations shall render the Supplier 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.



## **35. 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 Supplier, may terminate the Contract in whole or in part:
  - i) if the Supplier 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 Supplier fails to perform any other obligation under the Contract; or
  - iii) if the Supplier, 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 Supplier shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Supplier 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 Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, 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 Supplier, 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 Supplier 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 Supplier'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 Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.
  - iii)

### **36. Assignment**

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

### **37. 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 Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier 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.

[The Procuring Entity shall select insert the appropriate wording using the samples below or other acceptable wording, *and delete the text in italics*].

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>GCC 1.1(h)</b>	The Procuring Entity is: <i>[Insert complete legal name of the Procuring Entity]</i>
<b>GCC 4.2 (a)</b>	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>
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be <i>INCOTERMS 2015</i>
<b>GCC 8.1</b>	For <b><u>notices</u></b> , the Procuring Entity's address shall be:  Attention: <i>[ insert full name of person, if applicable]</i>  Postal address (full postal address)  Physical Address (full Location Address- <i>insert city, street name, Building named floor number, room number</i> )  Telephone: <i>[include telephone number, including country and city codes]</i>  Electronic mail address: <i>[insert e-mail address, if applicable]</i>
<b>GCC 10.4.2</b>	The place of arbitration shall be----- (specify City and Country).
<b>GCC 13.1</b>	Details of Shipping and other Documents to be furnished by the Supplier are <i>[insert the required documents, such as a negotiable bill of lading, a non-negotiable sea way bill, an airway bill, a railway consignment note, a road consignment note, insurance certificate, Manufacturer's or Supplier's warranty certificate, inspection certificate issued by nominated inspection agency, Supplier's factory shipping details etc.]</i> .  The above documents shall be received by the Procuring Entity before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.
<b>GCC 15.1</b>	The prices charged for the Goods supplied and the related Services performed <i>[insert "shall" or "shall not," as appropriate]</i> be adjustable.  If prices are adjustable, the following method shall be used to calculate the price adjustment <i>[see attachment to these SCC for a sample Price Adjustment Formula]</i>

GCC 16.1	<p><b>Sample provision</b></p> <p>GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p><b>A. Payment for Goods supplied from abroad:</b></p> <p>Payment of foreign currency portion shall be made in <i>[insert currency of the Contract Price]</i> in the following manner:</p> <p>(i) <b>Advance Payment:</b> Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and, in the form, provided in the Tendering document or another form acceptable to the Procuring Entity.</p> <p>(ii) <b>On Shipment:</b> Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favour of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 12.</p> <p>(iii) <b>On Acceptance:</b> Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Procuring Entity.</p> <p><b>B. Payment of local currency portion of a foreign Supplier shall be made in <u>Kenya shillings</u></b> within thirty (30) days of presentation of claim supported by a certificate from the Procuring Entity declaring that the Goods have been delivered and that all other contracted Services have been performed.</p> <p><b>C. Payment for Goods and Services supplied from within Kenya:</b></p> <p>Payment for Goods and Services supplied from within Kenya shall be made in _____<i>[currency]</i>, as follows:</p> <p>(i) <b>Advance Payment:</b> Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract against an invoice and a bank guarantee for the equivalent amount and in the form provided in the Tendering document or another form acceptable to the Procuring Entity.</p> <p>(ii) <b>On Delivery:</b> Eighty (80) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 13. The bank guarantee shall then be released.</p> <p>(iii) <b>On Acceptance:</b> The remaining ten (10) percent of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of the acceptance certificate for the respective delivery issued by the Procuring Entity.</p>
GCC 16.5	<p>The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be <i>[insert number]</i> days.</p> <p>The interest rate that shall be applied is <i>[insert number]</i> %</p>

<b>GCC 18.1</b>	<p>A Performance Security [ insert “shall” or “shall not” be required]</p> <p><i>[If a Performance Security is required, insert “the amount of the Performance Security shall be: [insert amount]</i></p> <p><i>[The amount of the Performance Security is usually expressed as a percentage of the Contract Price. The percentage varies according to the Procuring Entity’s perceived risk and impact of non-performance by the Supplier. A 10% percentage is used under normal circumstances]</i></p>
<b>GCC 18.3</b>	<p>If required, the Performance Security shall be in the form of: <i>[insert “a Demand Guarantee” or “a Performance Bond”]</i></p> <p>If required, the Performance security shall be denominated in <i>[insert “a freely convertible currency acceptable to the Procuring Entity” or “the currencies of payment of the Contract, in accordance with their portions of the Contract Price”]</i></p>
<b>GCC 18.4</b>	<p>Discharge of the Performance Security shall take place: <i>[ insert date if different from the one indicated in sub clause GCC 18.4]</i></p>
<b>GCC 23.2</b>	<p>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></p>
<b>GCC 24.1</b>	<p>The insurance coverage shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, insurance shall be as follows:</p> <p><i>[insert specific insurance provisions agreed upon, including coverage, currency and amount]</i></p>
<b>GCC 25.1</b>	<p>Responsibility for transportation of the Goods shall be as specified in the Incoterms.</p> <p>If not in accordance with Incoterms, responsibility for transportations shall be as follows: <i>[insert “The Supplier is required under the Contract to transport the Goods to a specified place of final destination within Kenya, defined as the Project Site, transport to such place of destination in Kenya, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price”; or any other agreed upon trade terms (specify the respective responsibilities of the Procuring Entity and the Supplier)]</i></p>
<b>GCC 25.2</b>	<p>Incidental services to be provided are:</p> <p><i>[Selected services covered under GCC Clause 25.2 and/or other should be specified with the desired features. The price quoted in the Tender price or agreed with the selected Supplier shall be included in the Contract Price.]</i></p>
<b>GCC 26.1</b>	<p>The inspections and tests shall be: <i>[insert nature, frequency, procedures for carrying out the inspections and tests]</i></p>
<b>GCC 26.2</b>	<p>The Inspections and tests shall be conducted at: <i>[insert name(s) of location(s)]</i></p>

<b>GCC 27.1</b>	The liquidated damage shall be: <i>[insert number]</i> % per week
<b>GCC 27.1</b>	The maximum amount of liquidated damages shall be: <i>[insert number]</i> %
<b>GCC 28.3</b>	<p>The period of validity of the Warranty shall be: <i>[insert number]</i> days</p> <p>For purposes of the Warranty, the place(s) of final destination(s) shall be:</p> <p><i>[insert name(s) of location(s)]</i></p> <p><b><i>Sample provision</i></b></p> <p>GCC 28.3—In partial modification of the provisions, the warranty period shall be _____hours of operation or _____months from date of acceptance of the Goods or ( ) months from the date of shipment, whichever occurs earlier. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:</p> <p>(a) make such changes, modifications, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with GCC 26.7,</p> <p><b>or</b></p> <p>(b) Pay liquidated damages to the Procuring Entity with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be ( ).</p> <p><i>[The rate should be higher than the adjustment rate used in the Tender evaluation under TDS 34.6(f)]</i></p>
<b>GCC 28.5, GCC 28.6</b>	The period for repair or replacement shall be: <i>[insert number(s)]</i> days.
<b>GCC 33.6</b>	<p>If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Supplier shall be ____% (insert appropriate percentage).</p> <p>The percentage is normally up to 50%) of the reduction in the Contract Price.</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
2. Name: [insert Authorized Representative's name]
3. Address: [insert Authorized Representative's Address]
4. Telephone: [insert Authorized Representative's telephone/fax numbers]
5. 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.]

6. Date of transmission: \_\_\_\_\_[*email*] on [*date*] \_\_\_\_\_(local time)

This Notification is sent by \_\_\_\_\_(*Name and designation*)

7. Notification of Intention to Award

Employer: \_\_\_\_\_[insert the name of the Employer]

Project: \_\_\_\_\_[insert name of project]

Contract title: \_\_\_\_\_[insert the name of the contract]

Country: \_\_\_\_\_[insert country where ITT is issued]

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:

8. 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

9. 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]*
  - iii) Agency: *\_[insert name of Employer]*
  - iv) 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 (3) 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.

10. 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](http://www.ppra.go.ke) or email [complaints@ppra.go.ke](mailto: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.

11. 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: NOTIFICATION OF AWARD - LETTER OF ACCEPTANCE**

[LETTERHEAD PAPER OF THE EMPLOYER]

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

To \_\_\_\_\_ [name and address of the Contractor]

This is to notify you that your Tender dated \_\_\_\_\_ [date] for execution of the \_\_\_\_\_ [name of the Contract and identification number, as given in the Contract Data] for the Accepted Contract Amount \_\_\_\_\_ [amount in numbers and words] [name of currency], as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by \_\_\_\_\_ (name of Employer).

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

Attachment: *Contract Agreement*: \_\_\_\_\_

## NOTIFICATION OF AWARD - LETTER OF ACCEPTANCE

[use letterhead paper of the Procuring Entity]

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

To: \_\_\_\_\_ [name and address of the Supplier]

Subject: \_\_\_\_\_ Notification of Award Contract No.. . . . .

This is to notify you that your Tender dated \_\_\_\_\_ [insert date] foreexecution 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 is 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 3 - 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 Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at \_\_\_\_\_ *[insert: address of Supplier]* (hereinafter called “the Supplier”), of the other part.

3. 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 Supplier for the supply of those Goods and Services, the Procuring Entity and the Supplier 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 Supplier as specified in this Agreement, the Supplier 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.
4. The Procuring Entity hereby covenants to pay the Supplier 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.
5. 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 Supplier

Signed: \_\_\_\_\_ *[insert signature of authorized representative(s) of the Supplier]* in the capacity of *[insert title or other appropriate designation]* in the presence of *[insert identification of official witness]* \_\_\_\_\_

[Guarantor letterhead]

Beneficiary:\_\_\_[insert name and Address of Employer] Date:\_\_\_\_[Insert date of issue]

Guarantor:\_\_\_[Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that \_\_\_\_\_ (herein after called "the Contractor") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with (name of Employer) \_\_\_\_\_ (the Employer as the Beneficiary), for the execution of \_\_\_\_\_ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (in words ),<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the .... Day of ....., 2.....<sup>2</sup>, and any demand for payment under it must be received by us at the office indicated above on or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

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[Name of Authorized Official, signature(s) and seals/stamps/]

*Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

*[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]*

*[Guarantor letterhead or SWIFT identifier code]*

Beneficiary: \_\_\_\_\_ *[insert name and Address of*

Employer] Date: \_\_\_\_\_ *[Insert date of issue]*

PERFORMANCE BOND No.: \_\_\_\_\_

Guarantor: \_\_\_\_\_ *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond \_\_\_\_\_ as Principal (hereinafter called “the Contractor”) and \_\_\_\_\_] as Surety (hereinafter called “the Surety”), are held and firmly bound unto \_\_\_\_\_] as Obligee (hereinafter called “the Employer”) in the amount of \_\_\_\_\_ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Employer dated the \_\_\_\_\_ day of, 20\_\_\_\_\_, for \_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:
  - 1) complete the Contract in accordance with its terms and conditions; or
  - 2) obtain a tender or tenders from qualified tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
  - 3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.



4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.
6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day\_\_\_\_of\_\_\_\_\_20 .

SIGNED ON\_\_\_\_\_on behalf of By\_\_\_\_\_in the capacity of In the presence of

SIGNED ON\_\_\_\_\_on behalf of By\_\_\_\_in the capacity of In the presence of

**FORM NO. 6 - ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]**

[Guarantor letterhead]

Beneficiary:\_\_\_\_[Insert name and Address of Employer] Date:\_\_\_\_[Insert date of issue]

ADVANCE PAYMENT GUARANTEE No.:\_\_\_\_[Insert guarantee reference number] Guarantor:

\_\_\_\_[Insert name and address of place of issue, unless indicated in the letterhead]

1. We have been informed that\_\_\_\_(hereinafter called “the Contractor”) has entered into Contract No.\_\_\_\_dated\_\_\_\_with the Beneficiary, for the execution of \_\_\_\_\_
2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_(in words )is to be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of\_\_\_\_\_(in words )<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
  - a) has used the advance payment for purposes other than the costs of mobilization in respect of the goods; or
  - b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number\_ at \_\_\_\_\_
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been 2 certified for payment, or on the\_\_\_\_day of\_\_\_\_\_, 2\_, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed[six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

*Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

<sup>1</sup>*The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified in the Contract.*

<sup>2</sup>*Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*