RURAL ELECTRIFICATION AUTHORITY

TENDER NO. REA/2010-2011/OT/017

FOR

SUPPLY OF POLE SIGNS & ACCESSORIES AND OTHER LINE MATERIALS.

Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI,
KENYA
Tel: +254 20 4953000, 4953600
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AUGUST 2010

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SECTION I **INVITATION TO TENDER**

TENDER REF NO: **REA/2010-2011/OT/014**

TENDER NAME: **SUPPLY OF POLE SIGNS & ACCESSORIES AND OTHER LINE MATERIALS.**

1.1 Rural Electrification Authority invites sealed bids from eligible candidates for SUPPLY OF POLE SIGNS & ACCESSORIES AND OTHER LINE MATERIALS

1.2 Interested eligible candidates may obtain further information from and inspect the tender documents at the office of the Manager, Procurement & Supplies on the 6th Floor, Chancery Building, Valley Road Nairobi, Kenya on normal working days between 9.00am-12.30 pm and 2.00 Pm -4.00 p.m.

1.3 A complete set of tender documents may be obtained by interested candidates upon payment of non-refundable fees of Kshs 5,000.00 or equivalent in US Dollars in cash or Bankers cheque payable to Rural Electrification Authority

1.4 Completed tender documents are to be enclosed in plain sealed envelopes marked with **tender name** and **reference number** and be deposited in the Tender Box situated at the Rural Electrification Authority offices and be addressed to:

The Chief Executive Officer
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI, KENYA
Tel: +254 20 4953000, 4953600
Fax: +254 20 2710944
Website:www.rea.co.ke

So as to be received on or before **8TH September 2010 at 10.00am**

1.5 The tender opening venue shall be **Stima Club** situated off Thika Road next to KCA University at **11.00 a.m**.The one hour allowed between closing & opening is to enable tenderers to get to the opening venue. A few representatives of the bidders will be allowed to accompany the tender box and the documents to the tender opening venue.

For Chief Executive Officer
RURAL ELECTRIFICATION AUTHORITY

SECTION II - INSTRUCTIONS TO TENDERERS

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section V.

2.1.2 The Procuring Entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

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

2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2.2 Eligible Goods

2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.

2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components

2.2.3 The origin of goods is distinct from the nationality of the tenderer.

2.3 Cost of Tendering

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

2.3.2 The price to be charged for the tender document shall be Kshs.5, 000.00.

2.4 The Tender Document

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

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

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

2.5 Clarification of Documents

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

2.5.2 The Procuring Entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.6 Amendment of Documents

2.6.1 At any time prior to the deadline for submission of tenders, the Procuring Entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.

2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring Entity, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring Entity, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate

English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.8 **Documents Comprising of Tender.**

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

(a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below

(b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;

(c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and

(d) tender security furnished in accordance with paragraph 2.14

2.9 **Tender Forms**

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

2.10 **Tender Prices**

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

2.10.2 Prices indicated on the Price Schedule (Section VI) shall include all costs including taxes insurances and delivery to the premises of the Procuring Entity, as further explained below.

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

2.10.4 The validity period of the tender shall be **90** days from the date of opening of the tender and the Tenderer **SHALL** confirm this in the Tender Form. **For Lot Items, bidders shall quote for the total quantity in that particular lot. Failure to quote for the total quantity shall be considered non responsive.**

2.11 Tender Currencies

2.11.1 a) Prices shall be quoted in Kenya Shillings or other freely convertible currency. The currency quoted must be clearly indicated on the price schedule.

b) The exchange rate to be used for currency conversion shall be the Central Bank of Kenya mean exchange rate ruling on the tender closing date.

2.12 Tenderer's Eligibility and Qualifications

2.12.1 Pursuant to paragraph 2.1. The tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring Entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.2

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

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

2.13 Goods Eligibility and Conformity to Tender Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract
In each tender document only one offer for each item **SHALL** be eligible as alternative offers will not be eligible for consideration.

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

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

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

responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

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

2.14 Tender Security

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

2.14.2 The tender security shall be in the amount of two per cent (2%) of the tender price (Delivered Duty Paid), which shall be the Delivered Duty Paid price quoted but exclusive of VAT at applicable rates

2.14.3 The tender security is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.8

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee, a banks' cheque, or a Public Procurement Oversight Authority Approved insurance company guarantee and a letter of credit issued by a reputable Bank or Insurance company located in Kenya, in the form provided in the tender documents and valid for thirty (30) days beyond the validity of the tender period. The procuring entity shall seek authentication of the tender security from the issuing bank

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

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

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

2.14.8 The tender security may be forfeited:

(a) if a tenderer withdraws its tender during the period of tender validity specified by the Procuring Entity on the Tender Form; or
(b) in the case of a successful tenderer, if the tenderer fails:
  (i) to sign the contract in accordance with paragraph 2.29
  or
  (ii) to furnish performance security in accordance with paragraph 2.30

2.15 Validity of Tenders

2.15.1 Tenders shall remain valid for **90 days** or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring Entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring Entity as non responsive.

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

2.16 Format and Signing of Tender

2.16.1 The tenderer shall prepare **THREE (3) BOUNDED COPIES** of the tender, clearly marking each **"ORIGINAL TENDER"** and **"COPY OF TENDER,"** as appropriate. In the event of any discrepancy between them, the original shall govern. Failure to provide the **three (3) Bounded copies** each containing the same attachments of the tender duly marked as instructed **SHALL** lead to the rejection of the tender.

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

2.16.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.17 Sealing and Marking of Tenders

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

2.17.2 The inner and outer envelopes shall:

(a) be addressed to the Procuring Entity at the address given in the Invitation to Tender:

(b) bear, tender number and name in the Invitation for Tenders and the words, "**DO NOT OPEN BEFORE," 8TH September 2010 at 10.00am** The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".

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

2.18 Deadline for Submission of Tenders

2.18.1 Tenders must be received by the Procuring Entity at the address specified under paragraph 2.17.2 no later than **8TH September 2010 at 10.00am** The Procuring Entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring Entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.19 Modification and Withdrawal of Tenders

2.19.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring Entity prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.19.3 No tender may be modified after the deadline for submission of tenders.

2.19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7

2.19.5 The Procuring Entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 The Procuring Entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.20 Opening of Tenders

2.20.1 The Procuring Entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **8TH September 2010 at 10.00am,** and in the location specified in the Invitation to Tender.

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

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

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

2.21 Clarification of Tenders

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

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

2.22 Preliminary Examination

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

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

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

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

2.22.5 For purposes of determining the responsiveness of a tender, the Procuring Entity SHALL rely on the attached Evaluation Criteria.

2.22.6 If a tender is not substantially responsive i.e. does not conform to the conditions set in the Evaluation Criteria, it will be rejected by the Procuring Entity and may not subsequently be made responsive by the tenderer by correction of the non conformity.

2.23 Conversion to Single Currency

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

2.24 Evaluation and Comparison of Tenders

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

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

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

2.25 Preference

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%. (Refer to Appendix to Instruction to tender item 9).

2.26 Contacting the Procuring Entity

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

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

2.27 Award of Contract

(a) Post-qualification

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

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

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

2.27.4 The Procuring entity shall reserve the right to determine the quantities if any, to be awarded to any tenderer and will not be obligated to award ALL or any quantity at all to the least evaluated bidder.

2.27.5 In exercise of the above discretion, where the Procuring Entity is satisfied as to the capability of the tenderer in performing a contract as determined under Clause 2.27.2, **where an item is presented in Lots, the award shall be on lot by lot basis. No one bidder shall be awarded more than one LOT.**

(b) Award Criteria

2.27.6 The Procuring Entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated

tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

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

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

(d) **Procuring Entity's Right to accept or Reject any or All Tenders**

2.27.8 The Procuring Entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring Entity's action.

2.27.9.1 The procuring Entity also reserves the right to extend the contract validity period.

2.28 Notification of Award

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

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

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.30, the Procuring Entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

2.29 Signing of Contract

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

2.29.2 The parties to the contract shall have it signed at least fourteen (14) days from the date of notification of contract award unless there is an administrative review request.

2.29.3 At least fourteen (14) days of receipt of the Notification of award and Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring Entity.

2.30 Performance Security

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

2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.28 or paragraph 2.29 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring Entity may make the award to the next lowest evaluated Candidate or call for new tenders.

2.31 Corrupt or Fraudulent Practices

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

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

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition;

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

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

APPENDIX TO INSTRUCTIONS TO TENDERERS

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

ITEM NO.	INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
1.	2.4.2	The word “may” is replaced by the word “shall”.
2.	2.9	A. The tenderer shall complete the form of tender, which form of tender shall contain the following information; a) Total value of tender which shall be the sum of total item costs in the Price Schedule. b) Tender Validity Period c) Date of tender d) Declaration to execute a performance guarantee of 10% if tender is accepted in the format specified by Rural Electrification Authority (REA) e) Signature of tenderer **NOTE**: Failure to submit a completed form of tender shall lead to an automatic disqualification of the tender.
3.	2.10.2	The tender prices for all goods supplied SHALL be on DeliveredDuty Paid (DDP) exclusive of VAT, to respective REA stores. In respect of completing the Price Schedule ALL bidders shall quote their prices delivered to the respective Rural Electrification Authority (REA)

		storage location. This shall be applicable to all bidders whether offering goods from within or outside Kenya.
4.	2.14.1	The tender security shall be in the amount of two per cent (2%) of the tender price (Delivered Duty Paid), which shall be the delivered duty paid price quoted but exclusive of VAT at applicable rates. **NOTE**: Failure to submit a tender security or submitting a tender security in any amount less than that prescribed shall lead to the rejection of tender.
5.	2.18.1	The tender shall be submitted to the Procuring Entity or dropped at the tender box situated at the address provided in the Invitation to Tender No later **than 8TH September 2010 at 10.00am**
6	2.22.4, 2.22.5 ,and 2.22.6	For purposes of determining responsiveness of tenders under this paragraph, the preliminary evaluation criteria set under **Section IX** shall be applicable.
7.	2.24.1	For purposes of tender comparison under this paragraph , the evaluation criteria shall be done in two stages: a. Technical b. Financial The evaluation criteria in both the technical and financial evaluation stages above shall be in accordance with the criteria set forth in **Section IX**
8.	2.25	1) The following represents the thresholds **below** which exclusive preference shall be given to citizens of Kenya. a) Fifty million for Kenya shillings for procurement in respect of goods or services. b) Two hundred million Kenya shillings for procurement in respect of works.

		2) The following represents the applicable preferences. a) The margin of preference for the purposes of candidates offering goods manufactured, mined, extracted and grown in Kenya shall be fifteen percent (15%) of the evaluated price of the tender. b) The margin of preference shall be six percent (6%) of the evaluated tender price where the percentage shareholding of the locals is less than twenty percent (20%); and c) Eight percent of the evaluated price of the tender where the percentage of shareholding of the locals is less than fifty one percent (51%) but above twenty percent.
9	2.27	(a) In determining whether the tenderer who has presented the least evaluated response is qualified to perform the contract, the procuring entity shall assess the tenderers financial, technical and production capabilities. In order to assess the above, the tenderer shall provide the following: • Current audited financial statement duly signed by the auditing firm or certified bank statement for the last six months. • Detailed address(s), contact person and contacts of the manufacturer as the procuring entity may make visits for the purposes of assessing capacity.
10.	2.28.2	The contract shall be take effect from the date of signing of the contract
11.	2.30.1	Performance security shall be 10% of total value of tender

SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

(a) "The Contract" means the agreement entered into between the Procuring Entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

(b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations

(c) "The Goods" means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring Entity under the Contract.

(d) "The Procuring Entity" means the organization purchasing the Goods under this Contract.

(e) "The Tenderer' means the individual or firm supplying the Goods under this Contract.

3.2 Application

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

3.3 Country of Origin

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

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

3.4 Standards

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

3.5 Use of Contract Documents and Information

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

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

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

3.6 Patent Rights

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

3.7 Performance Security

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring Entity the performance security in the amount specified in Special Conditions of Contract. (Refer to special Conditions of Contract item No. 1).

3.7.2 The proceeds of the performance security shall be payable to the Procuring Entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring Entity and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya, acceptable to the Procuring Entity, in the form provided in the tender documents.

3.7.4 The performance security will be discharged by the Procuring Entity and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

3.8 **Inspection and Tests**

3.8.1 The Procuring Entity or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Procuring Entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring Entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring Entity.

3.8.4 The Procuring Entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or

waived by reason of the equipment having previously been inspected, tested and passed by the Procuring Entity or its representative prior to the equipment delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract. (**refer to Special Conditions item No. 3).**

3.9 **Packing**

3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 **Delivery and Documents**

3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring Entity in the Special Conditions of Contract. **(refer to special conditions item No. 5)**

3.11 **Insurance**

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

3.12 **Payment**

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

3.12.1 Payments shall be made promptly by the Procuring Entity as specified in the contract

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).

3.13.3 Price variation request shall be processed by the Procuring Entity within 30 days of receiving the request.

3.14. Assignment

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

3.15 Subcontracts

3.13.4 The tenderer shall notify the Procuring Entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract (**refer to special conditions of Contract item No. 7).**

3.15.1

3.16 Termination for default

3.16.1 The Procuring Entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part

(a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring Entity.

(b) if the tenderer fails to perform any other obligation(s) under the Contract.

(c) if the tenderer, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

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

3.17 Liquidated Damages

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the Procuring Entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

4. (Refer to special conditions of Contract item No. 8).

3.18 Resolution of Disputes

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

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

3.19 Language and Law

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

3.20 Force Majeure

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

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

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

42. Special conditions of contract as relates to the GCC

ITEM NO.	REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
1	3.7.1	Performance security shall be 10% of the tender value and shall be valid 90 days after shipment incase of foreign tenderers and 30 days after delivery in case of local tenderers.
2	3.12.1	**Payment (Clause 3.12 of General Conditions of Contract)** 1) **Terms of Payment** The procuring entity shall pay promptly as specified in the contract. The credit period shall be:- (a) For Local, 30 days or more from Delivery & Submission of Invoice. (b) **For Foreign, 30 Days or more from Delivery & Submission of Invoice**. 2. **Method of Payment** Further to clause 2.10 under Section II, tenderers should provide their prices for the following conditions:- (i) **For local Suppliers payment shall be in Kenya Shillings through Company Cheque after delivery and submission of the invoice and other relevant documents. Local Suppliers shall be paid on DDP terms** (ii) For suppliers from outside Kenya payment shall be strictly Delivered Duty

		Paid (DDP),vat exclusive and payment shall be with: (a) Letter of Credit This means that payment will be done through an unconfirmed Letter of Credit where payment will be released after the credit period. This mode of payment will apply under the following Conditions:- i. The Supplier shall be required to meet L/C bank charges incurred by its bank while the Procuring Entity meet those incurred by its bank. ii. Any Extension /Amendment charges that may result from the Supplier's delays or mistakes shall be to the beneficiary's account. iii. Should the Supplier require a confirmed Letter of Credit then ALL confirmation charges incurred by the Supplier's bank and Procuring Entity's bank shall be to The Supplier's account.. (iv). a) Letter of Credit shall be opened for the order within the validity period of the contract . b) Letters of credit shall be partial L/C's for partial deliveries or full for one delivery as per the contract. (v) A copy of the Performance Bond, stamped and certified as authentic by REA, whose expiry date should not be less than 60 days from the LC expiry date, will form part of the documents to be presented to the Bank before payment is made.
3	3.8	**SECTION III - General Conditions of Contract Clause 3.8 Inspection and Tests**

		i) The supplier **SHALL** quote for separately, the cost of one (1) factory visit by two (2) officers of REA. **NOTE**: *This cost though mandatory, shall not be used in the evaluation.* ii) In the event that the Procuring Entity does not conduct factory visit for purposes of inspection, the tenderer shall be required to demonstrate that goods/products conform to standards by evidence of a **TEST REPORT OR CERTICICATE** from an ISO/IEC 17025 accredited Laboratory or recognized by the International Laboratory Accredited Corporation (ILAC) or preferably from any conformity assessment body recognized by the International Federation of Inspection Agencies (IFIA). **iii)** Where the Procuring Entity inspects and rejects the goods after the goods arrival, the Procuring Entity shall claim from the supplier for the full cost of the goods including delivery charges to REA Store and other incidental costs incurred in relation thereof. **(iv) Pre – Shipment Verification of Conformity (PVoC)** All suppliers of imported goods/products must obtain a **Certificate of Conformity** issued by an authorized Kenya Bureau of Standards (KEBS) appointed partners **prior to shipment**. The certificate is a mandatory Customs Clearance document in Kenya. KEBS has appointed **SGS, Societe Generale de Surveillance S.A** and **INTERTEK** to perform the PVoC programme on their behalf, depending on the country of supply. The cost of Pre – shipment Verification will be borne by the supplier.
4	3.9	**i)** The method of packing and package marking shall be specified and attached to

		the order. **ii)** The Goods shall be packed in good condition suitable for Sea/Air dispatch. Hazard in transit to the final destination shall include rough handling and storage in tropical conditions. The Supplier shall enclose a packing list in each package and all documents relating to this order shall show the Stores Code Number detailed against the items. All cases and packages shall be marked (painted) with bright pink bands 5 cms. in width so as to form a diagonal cross on every face. All bundles and pieces must bear a conspicuous bright pink colour mark to ensure identification in any position in which they may appear on un-loading. All lettering shall be no less than 7.5 cm (3") high and each package shall be marked with the shipping mark exactly as shown below:- **THE RURAL ELECTRIFICATION AUTHORITY** **ORDER NO……..** **C/O THE MANAGER, PROCUREMENT & SUPPLIES** **NAIROBI VIA MOMBASA, KENYA**
5	3.10	a) The Procuring requires that the Goods be delivered to the respective REA's storage locations and in accordance with the conditions set forth in the **SCHEDULE OF REQUIREMENTS** which shall form part of this Agreement. b) Delivery shall be in two (2) equal shipments, with the first shipment being received within 90days after the date of signing the contract and the second shipment being received 30days after the receipt of the first consignment (i.e 120days after signing of the contract). (NOTE: THIS PROVISION WILL NOT APPLY WHERE DELIVERIES ARE MADE IN ONE BATCH) b) For Imported Goods In addition to the above conditions, the Supplier shall: i) Avail Manufacturer's/Supplier's

		ii) warranty certificate where applicable; iii) Avail an Inspection Certificate of Conformity (COC) issued by an authorized KEBS partners prior to shipment. The certificate is a mandatory Customs Clearance document in Kenya. KEBS has appointed SGS, Societe Generale de Surveillance S.A and INTERTEK to perform the PVoC programme on their behalf, depending on the country of supply. iv) Avail Approved Drawings/Brochures And Technical Details. v) Avail a Certificate of origin. vi) Avail Summary of Acceptance Test reports signed and approved by REA for the items offered. c) For Domestic Goods: In addition to the above conditions, the Supplier shall: i) Avail Copies of the Supplier's invoice showing the Goods' description, quantity, unit price, total price; ii) Delivery note; iii) Manufacturer's/Supplier's warranty certificate; Packing list identifying contents of each package; (i) Inspection Certificate/Test Reports issued by the nominated inspection agency, if indicated during tender award, and the Supplier's inspection report; and (ii) **Approved Drawings/Brochures And Technical Details;** (iii) Summary of Acceptance Test reports signed and approved by REA for the items offered; and (v) Certificate of origin.

6	3.11	**Insurance (Clause 11.1 of General Conditions of Contract)** The Goods supplied under the Contract shall be fully insured by the Supplier against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery up to REA stores, The Supplier shall (except in respect to losses, injuries or damage resulting from any act or neglect of the Procuring Entity) indemnify and keep indemnified the Procuring Entity against all losses and claims for injuries or damage to any person or property whatsoever which may arise out of or in consequence of the Contract and against all claims, demands, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.
7	3.15	**Subcontract** (i) The tenderer shall not subcontract all or any part of this contract. (ii) In the event that subcontracting becomes inevitable, the tenderer shall notify the procuring entity of its intention to subcontract. The Procuring entityshall then be required to give a written approval of the same. (iii) The subcontracting of part or all of the job by the tenderer SHALL NOT , relieve the tenderer from any liability or obligation under the contract
8	**3.17**	(a) If the tenderer fails to deliver any or all of the goods contracted for within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the performance security as liquidated damages an amount

		equivalent to 0.5% of the contract price of the delayed goods for each 14 days period of delay. **(NOTE: The period depends on the goods to be delivered and the duration of the deliveries)** (b) The amount deducted under para 3.17 (a) herein above shall be up to a maximum deduction of 10% of the delayed goods. After this, the Procuring Entity may consider termination of the contract and calling up the Performance bond.
9		**Warranty** Tenderer warrants that the Goods supplied under the Contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that the Goods supplied under this Contract shall have no defect arising from manufacture, materials or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods under the conditions obtaining in Kenya. 1. This warranty will remain valid for 1 year after the Goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the Contract, or for 18 months after the date of shipment from the port of loading in the source country, whichever period concludes earlier. 2. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. 3. Upon receipt of such a notice, the Supplier shall, with all reasonable speed, replace the defective Goods without costs to the Procuring Entity. 4. If the Supplier, having been notified, fails to remedy the defect(s) within a reasonable

		period, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract.
10		**AMENDMENTS TO SECTION III**: a) Manufacturers/suppliers with documented record of poor performance pending for more than six (6) months shall **NOT** be considered for evaluation. b) Any bidders with delayed deliveries on other contracts shall **NOT** be considered for award. c) Offers shall not be accepted from manufacturers of materials/equipment that has exhibited latent defects/failures under service conditions unless (until) a technical report detailing the problem and corrective measures taken has been received, discussed and accepted by REA

SECTION IV - SCHEDULE OF REQUIREMENTS

SUPPLY OF POLE SIGNS & ACCESSORIES AND OTHER LINE MATERIALS.

ITEM NO.	DESCRIPTION	UNIT OF MEASURE	QUANTITY
1.	Barbed wire	KM	300
2.	Clout Nail	KGS	1,000
3.	Nail 2"	KGS	1,000
4.	Danger/Hatari plate	NO.	42,000
5.	Insulation tapes	NO.	10,000
6.	Denso Tape	NO.	1,000

NOTES TO TENDERERS:

I. All deliveries shall be made to REA stores or as otherwise indicated in accordance with the above Schedule. The estimated entire delivery period for this tender shall be within 120 days from the date of Contract Signing.

II. Any Tenderer who provides a delivery Schedule that is not consistent with the above shall not be considered for further evaluation or award.

III. Successful bidders will be required to adhere to the delivery schedule.

SECTION V - PRICE SCHEDULE FOR GOODS

SUPPLY OF POLE SIGNS & ACCESSORIES AND OTHER LINE MATERIALS.

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT OF MEASURE	COUNTRY OF ORIGIN	DELIVERY POINT	UNIT PRICE, DDP VAT EXC	TOTAL PRICE, VAT EXC.
1.	Barbed wire	300	KM		NAIROBI		
2.	Clout Nail	1,000	KGS		NAIROBI		
3.	Nail 2"	1,000	KGS		NAIROBI		
4.	Danger/Hatari plate	42,000	NO.		NAIROBI		
5.	Insulation tapes	10,000	NO.		NAIROBI		
6.	Denso Tape	1,000	NO.		NAIROBI		
	TOTAL PRICE						

1. In case of Discrepancy between unit and total price, the unit price shall prevail.

2. it is mandatory that bidders indicate in both the price schedule and the tender form the currency of their bid. Bidders who will not state in clear terms their currency may be treated as non responsive.

3. Where a Delivery Point is Indicated, it Means Delivery to REA Stores in that Particular Location.

SECTION VII - STANDARD FORMS

Notes on the sample Forms

1. Form of Tender - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.

2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.

3. Tender Security Form - When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.

4. Contract Form - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.

5. Performance Security Form - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the Procuring Entity.

6. Bank Guarantee for Advance Payment Form - When Advance payment is requested for by the successful bidder and agreed by the Procuring Entity, this form must be completed fully and duly signed by the authorized officials of the bank.

7. Manufacturers Authorization Form - When required by the ender documents this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.

7.1 **FORM OF TENDER**

Date _____
Tender No. _____

To: _____

_____

[Name and address of Procuring Entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. ……. *[Insert numbers].*the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission (…… (*Insert equipment description*) in conformity with the said tender documents for the sum of …… ……(*total tender amount in words and figures*) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

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

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to at least **10% (percent)** of the Contract Price for the due performance of the Contract , in the form prescribed by Rural Electrification Authority(*Procuring Entity).*

4. We agree to abide by this Tender for a period of at least **90 days** from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

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

6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20 _____

_____ _____

[Signature] [In the capacity of]

Duly authorized to sign tender for an on behalf of _____

7.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

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

Part 1 – General:

Business Name
……
…
Location of business premises.
……
Plot No…… Street/Road
……..
Postal Address …….. Tel No. ……. Fax …….
E mail …….
Nature of Business
……..
Registration Certificate No.
……
Maximum value of business which you can handle at any one time – Kshs.
……
Name of your bankers …….. Branch
……

Part 2 (a) – Sole Proprietor

Your name in full ……Age ……..
Nationality …… Country of origin
……

- Citizenship details
  ……
  …….
-

Part 2 (b) Partnership

Given details of partners as follows:

Name	Nationality	Citizenship Details	Shares
1. ……			
2. ……			
3. ……			
4. ……			

…

Part 2 (c) – Registered Company

Private or Public

…….

State the nominal and issued capital of company-

Nominal Kshs. …… Issued Kshs. ……

Given details of all directors as for

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

Date …….. Signature of Candidate ……..

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

7.3 TENDER SECURITY FORM

Whereas ……. [*Name of the tenderer]*

(Hereinafter called "the tenderer") has submitted its tender dated ……. [*Date of submission of tender]* for the supply, installation and commissioning of ……*[name and/or description of the equipment]* (hereinafter called "the Tender") …….. KNOW ALL PEOPLE by these presents that WE …… of ……. having our registered office at …… (Hereinafter called "the Bank"), are bound unto …….. [*Name of Procuring Entity}* (Hereinafter called "the Procuring Entity") in the sum of …….. For which payment well and truly to be made to the said Procuring Entity, the Bank binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Bank this _____ day of _____ 20 _____.

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring Entity during the period of tender validity:
   (a) fails or refuses to execute the Contract Form, if required; or
   (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Procuring Entity up to the above amount upon receipt of its first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

*[Signature of the bank]*_____

7.4 CONTRACT FORM

CONTRACT AGREEMENT FOR THE SUPPLY OF ---------- ---------- TO RURAL ELECTRIFICATION AUTHORITY

BETWEEN

RURAL ELECTRIFICATION AUTHORITY

"The Procuring Entity"

AND

"The Tenderer"

CONTRACT

This Agreement, (hereinafter called "the Contract") is entered into this **----------** day of ----------2009 between the **RURAL ELECTRIFICATION AUTHORITY** a state corporation established under Section 66 of the Energy Act, having its registered offices at the Chancery 6th Floor Valley Road of P. O. Box 34585 – 00100 Nairobi (hereinafter referred to as "the procuring entity" of one part AND ---------- **a** company incorporated ---------- having its registered office at----------and of P.O. Box ----------(hereinafter referred to as "the tenderer" of the other part.

WHEREAS the Procuring entity invited tenders for certain goods viz,supply of ---------- and the Tenderer has tendered for the said goods and the Procuring entity has accepted a tender by the Tenderer for supply of the following items:----------

in the sum of ---------- (figures----------) (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred hereto.
2. In consideration of the payments to be made by the procuring entity to the Tenderer as hereinafter mentioned, the Tenderer hereby covenants with the Procuring Entity to provide the Goods and to remedy defects therein in conformity in all respects with the provisions of the Contract.
3. The Procuring Entity hereby covenants to pay the Tenderer in consideration of the provision of the Goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The following documents shall constitute the Contract between the Procuring Entity and the Tenderer, and each shall be read and construed as an integral part of the Contract:
   (a) General Conditions of Contract;
   (b) Special Conditions of Contract;
   (c) Schedule of requirements (Annex I);
   (d) Technical Specifications (Annex II);
   (e) The tender form and Price Schedules (Annex III);
   (f) The Procuring entity's Notification of Award(Annex IV);
   (g) The Tenderer's Acceptance letter(Annex V);

5. The Tenderer is expected to deliver the goods as per the terms and conditions specified in the Special Conditions and the Schedule of requirements attached to this contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first hereinabove written.

SIGNED FOR AND ON BEHALF OF THE RURAL ELECTRIFICATION AUTHORITY:

CHIEF EXECUTIVE OFFICER

SIGNATURE: _____

In the presence of

AUTHORITY SECRETARY

SIGNATURE: _____

SIGNED FOR AND ON BEHALF OF M/S:_____

NAME:_____

_____

DESIGNATION: _____

_____

SIGNATURE:

_____

In the presence of

_____

NAME:_____

_____

DESIGNATION:

_____

SIGNATURE:

_____

7.5 PERFORMANCE SECURITY FORM (ON BANK LETTER HEAD)

To …….

[*name of Procuring Entity]*

WHEREAS …… [*name of tenderer*] (hereinafter called "the tenderer") has undertaken , in pursuance of Contract No. _____ [*reference number of the contract]* dated _____ 20 _____ to supply …… [*description of goods]* (hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee:

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

This guarantee is valid until the _____ day of _____ 20 _____

Signed and seal of the Guarantors

_____

[Name of bank or financial institution]

_____

[Address]

_____

[Date]

7.6 BANK GUARANTEE FOR ADVANCE PAYMENT FORM

To ……
[*Name of Procuring Entity]*

[Name of tender] ……...

Gentlemen and/or Ladies:

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

We, the ……. [*bank or financial institutions]*, as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring Entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding …… [*Amount of guarantee in figures and words]*

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there-under or of any of the Contract documents which may be made between the Procuring Entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until …… [*date]*.

Yours truly,
Signature and seal of the Guarantors

_____
[Name of bank or financial institution]

_____
[Address]

_____
[Date]

7.7 MANUFACTURER'S AUTHORIZATION FORM

To [*name of the Procuring Entity]* …….

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

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

_____

[*Signature for and on behalf of manufacturer]*

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

7.8 LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

_____

_____

To:_____

_____

RE: Tender No._____
Tender Name_____

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

_____

_____

1. Please acknowledge receipt of this letter of notification signifying your acceptance.

2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.

3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

   *(FULL PARTICULARS)*_____

SIGNED FOR ACCOUNTING OFFICER

7.9 FORM RB 1

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO…….OF…….20……...

BETWEEN
…….APPLICANT
AND
……RESPONDENT *(Procuring Entity*)

Request for review of the decision of the…… (*Name of the Procuring Entity)* of ……dated the…day of …….20…….in the matter of Tender No……..…of ……..20…

REQUEST FOR REVIEW

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

1.
2.
etc.

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

1.
2.
etc

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

FOR OFFICIAL USE ONLY

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

SECTION VIII: TENDER SUBMISSION SCHEDULE

Tender submissions shall be arranged, **NUMBERED** and **BOUND** in three lots as **ORIGINAL and COPY 1 and COPY 2**, containing the same attachments and the documents therein arranged as follows:

Document Section No.	Item	Comments
1	Tender Security – Bank guarantee, Bankers cheque.	
2	Tender Form and Price Schedule	
3	Confidential Business Questionnaire	
4	Copy of Trade License	
5	Copy of company Registration Certificates	
6	Copy of PIN, Copy of VAT Certificate	
7	List of Electricity Utilities Supplied	
8	QMS ISO certificates or valid Diamond Mark of quality Certificates from Kenya Bureau of standards.	
9	Appendix A of technical Specifications (where applicable)	
10	Product quality certificates	
11	Catalogues/Brochures/operation Manuals process flow Chart	
12	Comments and deviations	
13	Type Test reports & certificates	
15	Manufacturers Warranty	
16	Audited Financial Statement/Bank statement	

SECTION IX SUMMARY OF EVALUATION PROCESS

1. PRELIMINARY EVALUATION

The following **SHALL** constitute the evaluation criteria at the Preliminary Evaluation stage:

1) Confirmation of submission of Tender Security from a local Bank/ or a Public Procurement Oversight Authority Approved insurance company inform of either;

   (i) Bank guarantee or
   (ii) Bankers' cheque.
   (iii) Insurance company guarantee from approved insurance companies.
   (iv) A letter of credit

2) Confirmation of validity period of submitted tender security, which validity has been set to be at least **30 days** after the validity of the tender period.

3) Confirmation of tender validity period. Tenders **SHALL** be valid for **90 days** from the date of tender opening.

4) Confirmation of tender security value. Which value SHALL be at least 2% (percent) of the tender price delivery duty paid price but exclusive of Vat.

5) The tenderer SHALL dully fill the tender form provided in the tender document indicating the total tender price (delivery duty paid), vat exclusive and the price validity period.

6) The tenderer SHALL dully fill & sign the Confidential Business Questionnaire form in the format provided in the tender document.

7) Confirmation of submission of valid QMS ISO certification by the manufacturer or equivalent or valid Diamond Mark of quality Certificates from Kenya Bureau of Standards.

8) Tenderers who are not manufacturers shall provide a manufacturers authorization from the manufacturer they intent to use.

9) The tenderer SHALL provide test report/certificates from Kenya Bureau of standards for local tenderers or an equivalent body recognized by KEBS for overseas tenderers)

10) The tenderers SHALL submit Catalogues, Technical Brochures, Drawings and Technical Data as provided in the tender document.

11) Current audited financial statement duly signed by the auditing firm or certified bank statement for the last six months.

NB: Tenders which do not satisfy any of the requirements set out above shall be rejected as per public procurement and disposal regulations-2006 47(2) and will not proceed to technical evaluation stage.

2. TECHNICAL EVALUATION

The following SHALL constitute the evaluation criteria at the Technical Evaluation stage: -

1) Full compliance to Technical specifications outlined in Section X

2) Copies of relevant Catalogues, Technical Brochures, Drawings and Technical Data SHALL be submitted with the offer for evaluation

3) Valid Copies of relevant Type Test Certificates and Reports certified by an International Testing/ Standards Body or the National Testing /Standards Authority of the country of manufacture or ISO/IEC 17025 accredited test laboratories shall be submitted with the offer for evaluation. Test Certificates /Reports from KEBS for full compliance with specifications and the relevant Kenyan Standards i.e. Diamond Mark is accepted (sampling shall be by KEBS and not the supplier) (REA reserves the right to authenticate validity of these documents. Tenderers are required to provide contact details of the certifying body).

4) Production capability/Manufacturer's warranty signed and stamped.

NB: Tenders which do not satisfy any of the requirements set out above shall be rejected as per public procurement and disposal regulations- 2006 49(2) and SHALL not proceed to financial evaluation stage.

3. FINANCIAL EVALUATION

The following SHALL constitute the evaluation criteria at the Financial Evaluation stage:-

1) The Procuring Entity SHALL apply the prevailing mean exchange rate at the time of tender opening for purposes of conversion of tender currencies into one common currency for comparison of unit prices. The source of the prevailing exchange rate shall be the Central Bank of Kenya

2) Authentication of the tender security from the issuing bank.

3) Confirmation that the bidder has quoted his prices Delivered Duty Paid, vat exclusive to the respective REA storage facilities outlined in the Schedule of Requirements.

4) Confirmation of tenderer's conformance with REA delivery schedule in the tender document.

5) Compliance with the stated REA terms of payments

6) Evaluation of the tendered price competitiveness amongst bidders

7) Assessment of financial capability

NB: Tenders which do not satisfy any of the requirements set out above shall be rejected as per public procurement and disposal regulations- 2006 49(2)

SECTION X - TECHNICAL SPECIFICATIONS

(AS ATTACHED)