TENDER NO REA/13-14/NT/18 - FOR SUPPLY OF TREATED POWER DISTRIBUTION WOOD POLES (NATIONAL TENDER FOR YOUTH, WOMEN & DISADVANTAGED GROUPS)

SEPTEMBER 2013

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

(TENDER DOCUMENT FOR GOODS - ONE TENDER OPENING SYSTEM)

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SECTION I - INVITATION TO TENDER

Rural Electrification Authority (REA) invites tenders from interested Youth, Women & Disadvantaged Groups for the supply of the Treated Wood Poles:

TENDER NAME	ITEM DESCRIPTION	TENDER CLOSING DATE & TIME
REA/13-14/NT/18	Supply of treated power distribution wood poles (National tender for Youth, Women & Disadvantaged groups)	2nd October, 2013 @ 10.00Am

Interested bidders may inspect and download the tender document at **www.rea.co.ke** and submit the same free of charge.

Bidders are free to contact the office of the Manager, Procurement & Supplies on the 6th Floor: The Chancery, Valley Road Nairobi, during normal working days between 9.00 am - 12.30 pm and 2.00 -4.30 pm for any clarification regarding the tender. Bidders shall not contact or discuss any aspect of their tender with REA after closing date and before receipt of notification of award of tender or letters of regret as applicable. Any such contact shall lead to disqualification.

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

So that they are received on or before the dates and time indicated above.

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.

CHIEF EXECUTIVE OFFICER
RURAL ELECTRIFICATION AUTHORITY

SECTION II - TENDER SUBMISSION CHECKLIST

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

No.	Item	Tick Where Provided
1	Tender Security Declaration Form	
2	Form of Tender	
3	Copy of Valid Tax Compliance Certificate	
4	Declaration Form	
5	Confidential Business Questionnaire (CBQ)	
6	Copy of PIN Certificate	
7	Copy of Company or Firm's Registration Certificate	
8	Registration certificate with the National Treasury or the respective County Treasury	
9	Clearance certificate from the youth enterprise fund if you are youth; Women Gender Directorate if a Woman; and Certification from National Council for Persons with Disability if you are a person with Disability.	
10	Valid and current ISO Certificates or for locally manufactured or produced goods, valid Standardization Mark Certificates from the Kenya Bureau of Standards (KEBS) and any other Product Quality Certificates	
11	Type Test Certificates and their Reports and or Test Certificates and their Reports	
12	Duly completed Schedule of Guaranteed Technical Particulars	
13	Statement on Deviations	

14	Catalogues and or Brochures and or Manufacturer's drawings	
15	Manufacturer's Authorisation (where required)	
16	Copy of a CR12 search showing list of Directors. An enterprise owned by Youth, Women or persons with disabilities shall have to show proof of registration with the relevant government body and has at least 70% membership of youth, women or persons with disabilities and the leadership shall be 100% youth, women and persons with disability, respectively.	
16	Price Schedule(s)	
17	Bank Details	
18	Any other document or item required by the Tender Document	

NOTES TO TENDERERS

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

2. All Kenyan registered Tenderers must provide the Personal Identification Number Certificate (PIN Certificate).

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SECTION III – INSTRUCTION TO TENDERERS

3.1 Definitions

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

a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.*

b) *"Date of Tender Document" shall begin with the first day and end on the last day of the month appearing on the cover page of the Tender Document.*

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

d) *"KEBS" wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*

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

f) *Reference to "the tender" or the "Tender Document" includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.*

g) *"The Procuring Entity" means Rural Electrification Authority or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as REA).*

h) *"The Tenderer" means the person(s) submitting its Tender for the supply, installation and commissioning (where applicable) of the goods in response to the Invitation to Tender.*

i) *Where there are two or more persons included in the expression the "Tenderer", any act or default or omission by the Tenderer shall be*

deemed to be an act, default or omission by any one or more of such persons.

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

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

3.2 Eligible Tenderers

3.2.1 This Invitation to Tender is open to all Tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful Tenderers shall supply the goods in accordance with this tender and the ensuing contract.

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

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

b) Any Minister or Assistant Minister of the Government of the Republic of Kenya (GoK).

c) Any public servant of GoK.

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

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

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

3.2.3 For the purposes of this paragraph, any relative i.e. spouse(s) and child(ren) of any person mentioned in sub-paragraph 3.2.2 is also ineligible to participate in the tender. In addition, a Minister shall include the President, Vice-President or the Attorney General of GoK.

3.2.4 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 REA to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation to Tender.

3.2.5 Tenderers shall not be under declarations of ineligibility for corrupt, fraudulent practices and are not amongst persons mentioned in sub-paragraphs 3.2.2 and 3.2.3 above.

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

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

3.3 Eligible Goods

3.3.1 All goods to be supplied under the contract shall have their origin in eligible source countries. These countries are as described in the Appendix to Instructions to Tenderers.

3.3.2 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.

3.3.3 The origin of goods is distinct from the nationality of the Tenderer.

3.4 Cost of Tendering

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

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

3.5 Contents of the Tender Document

3.5.1 The Tender Document comprises the documents listed below and Addendum (where applicable) issued in accordance with paragraph 3.7 of these Instructions to Tenderers: -

a) Invitation to Tender
b) Tender Submission Checklist
c) Instructions to Tenderers
d) Appendix to Instructions to Tenderers
e) Schedule of Requirements
f) Price Schedule for Goods
g) Summary of the Evaluation Process
h) General Conditions of Contract
i) Special Conditions of Contract
j) Tender Form
k) Confidential Business Questionnaire Form

l) Tender Security Form

m) Manufacturer's Authorization Form

n) Declaration Form

o) Contract Form

p) Performance Security Form

q) Technical Specifications

(i) General Requirements

(ii.) Detailed Technical Specifications

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

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

3.6 Clarification of Documents

3.6.1 A prospective Tenderer requiring any clarification of the Tender Document may notify the Procurement Manager in writing or by post at REA's address indicated in the Invitation to Tender. REA 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 REA. Written copies of REA's response *(including an explanation of the query but without identifying the source of inquiry)* will be sent to all prospective Tenderers that have duly received the Tender Document.

3.6.2 REA shall reply to any clarifications sought by the Tenderer within three (3) days of receiving the request to enable the Tenderer make timely submission of its Tender.

3.6.3 If a prospective Tenderer sends an inquiry after the stated days or the inquiry is received by REA after the stated days, REA shall have the option of responding to the inquiry and/or extension of the date of submission of tenders or ignoring it.

3.7 Amendment of Documents

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

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

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

3.8 Language of Tender

The Tender prepared by the Tenderer, as well as all correspondence and documents relating to the tender, exchanged between the Tenderer and REA, 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. The English translation shall be on the Tenderer's letterhead and shall be signed by the duly authorized signatory signing the Tender and stamped with the Tenderer's stamp.

3.9 Documents Comprising the Tender

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

a) *Declaration Form, Tender Form and a Price Schedule completed in compliance with paragraphs 3.2, 3.10, 3.11 and 3.12.*

b) *Documentary evidence established in accordance with paragraph 3.13 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 3.14 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 3.17*

e) *A detailed list of previous customers as prescribed for similar items on tender and their contact addresses shall be submitted with the Tender for the purpose of reference, or for evaluation where the technical specifications so dictate.*

3.10 Tender Form

The Tenderer shall complete and sign the Tender Form and all other documents furnished in the Tender Document, indicating the goods to be supplied, a brief

description of the goods, their country of origin, quantity, and prices amongst other information required.

3.11 Tender Prices

3.11.1 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.

3.11.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises (where applicable) of REA or other specified site.

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

3.11.4 Tender prices to be submitted (quoted) by the Tenderer shall remain fixed for the contract duration.

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

3.12 Tender Currencies

3.12.1 For goods that the Tenderer will supply from within or outside Kenya, the prices shall be quoted in Kenya Shillings, or in another freely convertible currency in Kenya. The currency quoted must be indicated clearly on the Price Schedule of Goods.

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

3.13 Tenderer's Eligibility and Qualifications

3.13.1 Pursuant to paragraph 3.2, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to tender and its qualifications to perform the contract if its Tender is accepted.

3.13.2 The documentary evidence of the Tenderer's eligibility to tender shall establish to REA's satisfaction that the Tenderer, at the time of submission of its Tender, is from an eligible source country as defined under paragraph 3.2

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

a) that, in the case of a Tenderer offering to supply goods under the contract which the Tenderer did not manufacture or otherwise produce, the

Tenderer has been duly authorized by the goods' manufacturer or producer to supply the goods. The authorization shall strictly be in the form and content as prescribed in the Manufacturer's Authorization Form in the Tender Document.

b) that the Tenderer has the financial capability necessary to perform the contract. The Tenderer shall be required to provide the documents as specified in the Appendix to Instructions to Tenderers including a current Tax Compliance Certificate issued by the relevant tax authorities.

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

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

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

3.14 Goods Eligibility and Conformity to Tender Documents

3.14.1 Pursuant to paragraph 3.3 of this Section, the Tenderer shall furnish, as part of its Tender, documents establishing the eligibility and conformity to the Tender Document of all goods that the Tenderer proposes to supply under the contract.

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

3.14.3 The documentary evidence of conformity of the goods to the Tender Document may be in the form of literature, drawings and data, and shall consist of: -

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

b) a list giving full particulars, including available source and current prices of spare parts, special tools and other incidental apparatus necessary for the proper and continuing functioning of the goods for a minimum period of two (2) years, following commencement of the use of the goods by REA, and,

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

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

3.14.4 For goods from outside Kenya, the Tenderer shall be required to demonstrate that the goods or products conform to required standards by evidence of:

a) A Type Test Certificate and its Reports issued by:-

i) an International Testing or Standards Body or

ii) the National Testing or Standards Authority of the country of manufacture or production or

iii) an International Standards Organization or International Electrotechnical Commission (ISO/IEC) 17025 accredited independent testing laboratory or

iv) an independent laboratory accredited by a body recognized by the International Laboratory Accreditation Co-operation (ILAC).

b) Where (a) above is not required in the tender specifications, a Test Certificate and its Reports issued by the National Testing or Standards Authority of the country of manufacture or production.

In both cases i.e. (a) and (b) above, the testing authority must be one that is approved by KEBS.

3.14.5 For goods manufactured or produced in Kenya, the Tenderer shall be required to demonstrate that the goods conform to required standards and specifications by evidence of:–

a) A Type Test Certificate and its Reports issued by KEBS.

b) Where (a) above is not required in the tender specifications, a Test Certificate and its Reports issued by KEBS or any Testing Authority approved by KEBS.

3.14.6 For paragraphs 3.14.4 and 3.14.5, the Tenderer shall submit with its Tender a copy of the accreditation or recognition or approval certificate, as applicable, for the testing authority from KEBS. REA reserves the right to subject the certificate to authentication.

3.14.7 Additional evidence of conformity of the goods to the Tender Document shall include sample(s) where required.

3.14.8 For purposes of the documentary and other evidence to be furnished pursuant to sub-paragraphs 3.14.3, 3.14.4 and 3.14.5 above, the Tenderer shall note that standards for workmanship, material, and equipment, as well as references to

brand names or catalogue numbers designated by REA in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may adopt higher standards, brand names, and or catalogue numbers in its Tender, provided that it demonstrates to REA's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

3.15 Sample(s)

3.15.1 Where required in the Appendix to Instruction to Tenderers, all Tenderers must also submit sample(s) in conformity with the technical specifications securely and clearly labelled with -

a) the Tender number and name,

b) the opening date and time of the tender,

c) the name or identity of the sample, and,

d) the name of the Tenderer.

3.15.2 The sample(s) shall be considered as part of the tender and must be submitted together with the Tender before the deadline for submission of Tenders.

3.16 Warranty

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

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

3.17 Tender Security

3.17.1 The Tenderer shall furnish, as part of its Tender, a tender security for the amount specified in the Appendix to Instructions to Tenderers.

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

a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Tender Security Form (Bank Guarantee) in the Tender Document.

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

c) an original guarantee from a deposit taking Micro Finance Institution, SACCO Society, the Youth Enterprise Development Fund or the Women Enterprise Fund.

3.17.3 The tender security is required to protect REA against the risk of the Tenderer's conduct which would warrant the security's forfeiture pursuant to paragraph 3.17.10.

3.17.4 The Tender Security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be issued by a commercial bank licensed by the Central Bank of Kenya, the bank must be located in Kenya.

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

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

3.17.7 Any Tender not secured in accordance with this paragraph will be rejected by REA as non-responsive, pursuant to paragraph 3.28.

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

a) the procurement proceedings are terminated

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

c) a contract for the procurement is entered into

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

3.17.9 The successful Tenderer's Tender Security will be released upon the successful Tenderer's signing the contract, pursuant to paragraph 3.39 and furnishing an authentic Performance Security, pursuant to paragraph 3.40.

3.17.10 The Tender Security shall be forfeited –

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

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

c) if the Tenderer fails to enter into a written contract in accordance with paragraph 3.39

d) if the successful Tenderer fails to furnish the performance security in accordance with paragraph 3.40

e) if the Tenderer fails to extend the validity of the tender security where REA has extended the tender validity period in accordance with paragraph 3.18.

3.18 Validity of Tenders

3.18.1 Tenders shall remain valid for ninety (90) days after the date of tender opening as specified in the Invitation to Tender or as otherwise may be prescribed by REA, pursuant to paragraph 3.23. A Tender that is valid for a shorter period shall be rejected by REA as non-responsive.

3.18.2 In exceptional circumstances, REA may extend the Tender validity period. The extension shall be made in writing. The tender security provided under paragraph 3.17 shall also be extended. A Tenderer shall not be required nor permitted to modify its tender during the extended period.

3.19 Alternative Offers

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

3.20 Number of Sets of and Tender Format

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

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

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

3.20.4 Any Tender not prepared and signed in accordance with this paragraph, in particular sub-paragraphs 3.20.1, 3.20.2 and 3.20.3 shall be rejected byRURAL

ELECTRIFICATION AUTHORITY as non-responsive, pursuant to paragraph 3.28.

3.21 Preparation and Signing of the Tender

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

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

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

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

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

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

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

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

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

3.22 Sealing and Outer Marking of Tenders

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

3.22.2 The inner and outer envelopes or packages shall -

a) be addressed toRURAL ELECTRIFICATION AUTHORITY at the address given in the Invitation to Tender,

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

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

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

3.23 Deadline for Submission of Tenders

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

3.23.2 REA may, at its discretion, extend this deadline for submission of Tenders by amending the tender documents in accordance with paragraph 3.7, in which case all rights and obligations of REA and the Tenderer previously subject to the initial deadline, will therefore be subject to the deadline as extended.

3.24 Modification and Withdrawal of Tenders

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

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

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

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

3.25 Opening of Tenders

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

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

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

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

3.26 Process to be Confidential

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

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

3.27 Clarification of Tenders and Contacting REA

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

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

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

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

3.28 Preliminary Tender Evaluation

3.28.1 Prior to the detailed Technical and Financial evaluation, REA will determine the substantial responsiveness of each Tender. For purposes of this tender, a substantially responsive Tender is one that conforms to the requirements of Preliminary Evaluation. REA's determination of a Tender's responsiveness is to

be based on the contents of the Tender itself without recourse to extrinsic evidence.

3.28.2 REA will examine the Tenders to determine whether they conform to the Preliminary Evaluation Criteria set out in the Summary of Evaluation Process.

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

3.29 Minor Deviations, Errors or Oversights

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

3.29.2 Such minor deviation -

3.29.2.1 shall be quantified to the extent possible,

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

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

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

3.30 Technical Evaluation of Tenders

REA will evaluate and compare the Tenders that have been determined to be substantially responsive in compliance to the Technical requirements set out in the Tender Document.

3.31 Financial Evaluation of Tenders

3.31.1 Upon completion of the preliminary and technical evaluation, REA shall conduct a Financial Evaluation and comparison as set out in the Summary of Evaluation Process.

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

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

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

3.32 Exclusive Preferences.

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

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

b) the amount of the tender is below -

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

(ii.) Ksh. 500 Million in respect of other works.

(iii) Ksh. 100 Million in respect of goods.

(iv) Ksh. 50Million in respect of services.

3.33 Tender Evaluation Period

The tender evaluation committee(s) shall evaluate the tender within fifteen (15) days of the validity period from the date of the first opening of the tender.

3.34 Debarment of a Tenderer

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

3.35 Confirmation of Qualification for Award

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

3.35.2 The confirmation will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to paragraph 3.13 as well as confirmation of such other information as REA deems necessary and appropriate. This may include factory and other facilities inspection and audits.

3.35.3 An affirmative confirmation will be a prerequisite for award of the contract to the Tenderer. A negative confirmation will result in rejection of the Tenderer's Tender, in which event REA will proceed to the next lowest evaluated responsive

tender to make a similar confirmation of that Tenderer's capabilities to perform satisfactorily.

3.36 Award of Contract

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

3.36.2 Award will be done as indicated in the Appendix to Instructions to Tenderers .

3.37 Termination of Procurement Proceedings

3.37.1 REA may at any time terminate procurement proceedings before entering into a contract and shall not be liable to any person for the termination.

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

3.38 Notification of Award

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

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

3.38.3 Simultaneously, and without prejudice to the contents of paragraph 3.26, on issuance of Notification of Award to the successful Tenderer, REA shall notify each unsuccessful Tenderer.

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

3.39 Signing of Contract

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

3.39.2 Within fourteen (14) days of the date of notification of award, the successful Tenderer shall only sign the Contract Form and all the documents specified in that Form and return them to REA within that period of fourteen (14) days.

3.39.3 REA shall sign and date the Contract in the period between not earlier than fourteen (14) days from the date of notification of contract award and not later than thirty (30) days after expiry of tender validity. Further, REA shall not sign the contract until and unless the authentic performance security is received in accordance with paragraph 3.40.

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

3.39.5 Paragraph 3.38 together with the provisions of this paragraph 3.39 will apply with necessary modifications with respect to the Tenderer notified under sub-paragraph 3.39.4.

3.40 Performance Security

3.40.1 Within twenty one (21) days of the date of notification of award from REA, the successful Tenderer shall furnish REA with a Performance Security which shall be either one or a combination of the following:

a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document. .

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

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

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

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

3.40.4 REA shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the successful Tenderer to sensitize its issuing bank on

the need to respond directly and expeditiously to queries from REA. The period for response shall not exceed five (5) days from the date of REA's query. Should there be no conclusive response by the Bank within this period, such successful Tenderer's Performance Security may be deemed as invalid.

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

3.40.6 Paragraph 3.38, 3.39 together with the provisions of this paragraph 3.40 will apply with necessary modifications, and as far as circumstances permit, with respect to the Tenderer notified under sub-paragraph 3.40.5.

3.41 Corrupt or Fraudulent Practices

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

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

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

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

3.42.3 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 and or amend the provisions of the Instructions to Tenderers *hereinafter abbreviated as ITT*. Wherever there is a conflict between the provisions of the ITT and the Appendix, the provisions of the Appendix herein shall prevail over those of the ITT.

No.	ITT Reference Clause	Particulars of Appendix
1.	**3.2.1 Eligible Tenderers**	*Youth, Women and Disadvantaged groups Registered with the National Treasury or the respective County Treasury with in which they operate & other bodies as required.*
2.	**3.3.1 Origin of Eligible goods**	*All countries are eligible save where otherwise stated. All tenders shall state country of origin.*
3.	**3.9 (e) Documents Comprising the Tender – List of Previous Customers.**	*The Tenderer shall submit at least three (3) names customers of similar goods.*
4.	**3.11.2 Prices on price schedule**	*Tenderers shall be required to note that they shall be responsible for payment **ALL** taxes which includes **VAT** to the relevant authority.*
4.	**3.13.3 (a) Manufacturer's Authorization**	*Tenderers must submit this authorization. A tenderer shall be allowed to submit a maximum of three (3) separate authorizations from three different manufactures (read treatment plants).*

5.	**3.13.3 (b) Documentary evidence of financial capability**	*The audited financial statements required must be those that are reported within fifteen (15) calendar months of the date of the tender document.*
6.	**3.13.3 (c) and (d) Documents of evidence of eligibility**	*These shall include treatment certificate and other quality certificates*
7.	**3.14.3 (a) Catalogues, Brochures, Manufacturer's Drawings**	*Bidders shall be required to submit catalogues, brochures and manufacturers drawings*
8.	**3.15.1 Sample(s)**	*This is not applicable in this tender.*
9.	**3.16.2 Warranty – Period of**	This warranty period shall be twenty five (25) years from date of manufacture.
10.	**3.17.1 Tender Security**	*Fill and sign the tender security declaration form*
12.	**3.32 Exclusive Preferences**	*This clause is not applicable in this tender.*
13.	**3.36.2 Award of Contract**	*The Mode of award shall be in accordance with the following:-* *a). Each location of delivery shall be considered an independent lot.* *b). The Maximum a bidder shall be entitled to for award is 2,000. However each bidder must quote for at least 1,000 poles.* *c). The successful bidder(s) shall be the one with the lowest price per pole to be determined in accordance with the summary of Evaluation process and confirmation for award , taking into account the following:-* *i) Capacity of Treatment Plant (Pressure Unit)* *ii) Available capacity of the manufacturer/Treatment plant.* *iii). No. of poles available for the contract.* *e). Once a qualified bidder has been awarded the maximum number of poles capable of being awarded to them, the immediate next qualified bidder shall be considered for award of the remaining poles in that lot, or any other lots if available, following the procedure in (d) above.* *f). Subject to (d) above, the graduation in (e) shall be*

		adopted, with necessary changes until all the poles listed in this Tender document are exhausted. ***HOWEVER RURAL ELECTRIFICATION AUTHORITY RESERVES THE RIGHT TO COUNTER OFFER THE PRICES.***

All CCA treatment certificates shall be accompanied by a print out copy of a CCA retention analysis from a spectrometric analyzer.

SECTION IV - SCHEDULE OF REQUIREMENTS

Part A - Brief Schedule Of Details On Goods Required

- Tender No. REA/13-14/NT/18 – FOR SUPPLY OF TREATED POWER DISTRIBUTION WOOD POLES FOR YOUTH, WOMEN & DISADVANTAGED GROUPS

Item No.	Code	Description	Unit of Measure	Quantity
1. Delivery to Kisumu Store				
	1001043	Treated Wood Poles 12.0M	Pieces	5,000
	1001044	Treated Wood Poles 14.0M	Pieces	1,000
2. **Delivery to Mombasa Store**				
	1001043	Treated Wood Poles 12.0M	Pieces	3,000
	1001044	Treated Wood Poles 14.0M	Pieces	500
3. **Delivery to Eldoret Store**				
	1001043	Treated Wood Poles 12.0M	Pieces	3,000
	1001044	Treated Wood Poles 14.0M	Pieces	500
4. **Delivery to Nyeri Store**				
	1001043	Treated Wood Poles 12.0M	Pieces	4,000
	1001044	Treated Wood Poles 14.0M	Pieces	1,000

NOTES TO TENDERERS:-

1* Tenderers must indicate the dimensions and total weight of the poles in their bid documents.

2. Tenderers shall quote the number of poles they can deliver per location as long as the total number of poles tendered for is not less than 1,000.

3. For purposes of this Tender all the 11 and 12M poles belong to diameter class 180mm while the 14M poles belong to diameter class 200mm measurement at the top.

4. Tenderers shall quote for a minimum of 1,000 poles. However, REA shall not be bound to award a minimum of 1,000 poles to any successful Tenderer.

5. All deliveries shall be made to REA stores or as otherwise indicated in accordance with the above Schedule.

8. The delivery period for this tender shall be from commencement date of the contract and be completed within four (4) months from that date.

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

11. Successful bidders will be required to adhere to the delivery schedule. Roll overs from one quarter to the next shall be considered a default in contract obligations, whose consequences shall be addressed in accordance with the provisions relating to the contract at clauses 7.22 and 7.23 of the General Conditions of Contract.

SECTION V - PRICE SCHEDULE FOR GOODS

TENDER NO.REA/13-14/NT/18 – FOR SUPPLY OF TREATED POWER TRANSMISSION WOOD POLES FOR YOUTH, WOMEN & DISADVANTAGED GROUPS

Item No.	Code	Description	UoM	Required Quantity	Quantity quoted for	Unit Price, Vat Inclusive	Total Price, Vat Inclusive
1. Delivery to Kisumu Store							
	1001043	Treated Wood Poles 12.0M	Pieces	5,000			
	1001044	Treated Wood Poles 14.0M	Pieces	1,000			
2. Delivery to Mombasa Store							
	1001043	Treated Wood Poles 12.0M	Pieces	3,000			
	1001044	Treated Wood Poles 14.0M	Pieces	500			
3. Delivery to Eldoret Store							
	1001043	Treated Wood Poles 12.0M	Pieces	3,000			
	1001044	Treated Wood Poles 14.0M	Pieces	500			
4. Delivery to Nyeri Store							
	1001043	Treated Wood Poles 12.0M	Pieces	4,000			

	1001044	Treated Wood Poles 14.0M	Pieces	1,000			

Date:

Tender Number and Name:

To:

Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI, KENYA

Dear Sirs and Madams,

Having read, examined and understood the Tender Document including all Addenda, receipt of which we hereby acknowledge, we, the undersigned Tenderer, offer to supply, deliver, install and commission *(the latter two where applicable)* ……*(insert goods description*) for the sum of……(*total tender price in words and figures*) or such other sums as may be ascertained in accordance with the schedule of prices inserted by me/ us above.

Name of Tenderer

_____

Name and Capacity of authorized person signing the Tender

_____

Signature of authorized person signing the Tender

_____

Stamp of Tenderer

_____

<u>*NOTES TO TENDERERS:-</u>

1. **REA reserves the right to counter offer the prices**

SECTION VI - SUMMARY OF EVALUATION PROCESS

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

6.1 Part 1 - Preliminary Evaluation Criteria under Paragraph 3.28 of the ITT. These are mandatory requirements. This shall include confirmation of the following: -

6.1.1 Submission of Tender Security - Checking its validity, whether it is Original; whether it is issued by a local bank or institution; whether it is strictly in the format required in accordance with the sample Tender Security Form(s).

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

6.1.3 Submission and considering Tender Form duly completed and signed.

6.1.4 Submission and considering the following from interested Youth, Women & Disadvantaged Groups

a) Company or Firm's Registration Certificate

b) PIN Certificate.

c) Valid Tax Compliance Certificate.

d) Registration with the national treasury or the respective County treasury with in which they operate. For Youth, Women & disadvantaged group

e) Clearance certificate from the youth enterprise fund if you are youth; Women Gender Directorate if a Woman; and Certification from National Council for Persons with Disability if you are a person with Disability

6.1.5 That the Tender is valid for the period required.

6.1.6 Submission and considering that the required number of sets (original and copies) of Tender.

6.1.7 Submission and considering the Confidential Business Questionnaire:-

a) Is fully filled.

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

c) That the Tenderer is not ineligible as per paragraph 3.2 of the ITT.

6.1.8 Submission of Copies of relevant Type Test Certificates and their Reports or Test Certificate and their Reports from the designated bodies.

6.1.9 Submission of a copy of ISO/ IEC 17025 accreditation certificate for the testing body/ authority.

6.1.10 Submission of a copy of:-

a) the Manufacturer's valid and applicable quality management system certification i.e. ISO 9001:2008 for poles from outside Kenya.

b) Valid and applicable KEBS Standardization Mark certificate for poles manufactured/treated in Kenya or their equivalent from other East African Community countries. (In this case the new KS 516 2008).

6.1.11 Submission of the following-

a) Catalogues and/or Brochures

b) Manufacturer's Drawings

b) Commentary on Schedule of Guaranteed Technical Particulars.

6.1.12 Record of unsatisfactory or default in performance obligations in any contract shall be considered. This shall include any Tenderer with unresolved case(s) in its performance obligations for more than two (2) months in any contract. Any Tenderer with such a record or unresolved case will not be considered for further evaluation.

6.1.13 notwithstanding the above, considering any outstanding orders where applicable and the current production capacity of the Manufacturer and/ or Tendered.

Tenders will proceed to the Technical Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation under Paragraph 3.28.

6.2 Part II - Technical Evaluation Criteria under Paragraph 3.30 of the ITT. This will be in the following stages: -

6.2.1 ***Table 1****: Mandatory Technical Requirements (against Tender Requirements and Technical Specifications). Verification and consideration of the following:-*

	Criteria	REA Requirement	Bidder's Offer - Yes or No
1	Manufacturer's/ Treatment Plant's Authorization	Required in the format given in the Tender document	
2	Manufacturer's Warranty	Required in the format given in the Tender document.	
3	Catalogues/ Brochures/ Drawings	Relevancy to the tender (shall be those from the Manufacturer/tenderer)	
4	Full compliance of Guaranteed Technical Particulars	Required as per Specifications	
5	Office/premises availability.	Copy of Lease or Tenancy Agreement or Title Deed or electricity or water or telephone bill. All the documents must be in the name of the Tenderer or Agreements between the Tenderer and the Landlord or Lessor. The bills should not be more than three months old from the Date of the Tender Document.	
6	Tenderer's Company profile and technical description of Pole Manufacturing Process	The content of the Profile is at the discretion of the Bidder.	

NOTES TO TABLE 1:-

1. Where the Tenderer's offer fails to satisfy any one or more of the requirements as per the Criteria in Table 1 above, that Tenderer will be declared to have failed *"Failed On Mandatory Technical Requirements"*.

2. The Tenderer in number 1 above shall not qualify for further evaluation.

3. Where the Tenderer's offer complies with all the requirements in Table 1 above, that offer shall proceed for further evaluation as per the criteria set out in Table 2.

Stage 3 of Technical Evaluation

6.2.3 Further Technical Evaluation. These are mandatory requirements. The Tenderer shall provide the following further information:-

a) Number of Pressure Treatment Units available to it, their diameters and length.

b) Number of poles per charge and length of treatment cycle

c) Acreage of air seasoning and storage yard

d) Number of working days in a week and number of shifts per day

e) Where the Bidder is currently serving any other contracts or has been awarded a similar contract within the last six months of the Date of the Tender Document, such Tenderer shall submit a detailed list of ALL the names of persons/ companies giving such contracts and awards. The List must include:-

(i.) The full contact as well as physical addresses of the previous customers.

(ii.) The full contact shall include-

- *the e-mail address of the institution*
- *the e-mail address of the contact person*
- *complete facsimile (fax) number, (if the previous customer has any)*

f) A statement from the Tenderer in respect of the supply to such customer that has any details that the Tenderer deems appropriate but must include a confirmation of the existence of such contracts/supply orders.

g) The Statement shall also indicate the projected estimated completion date of performance or delivery of the poles by the Bidder.

Stage 4 of Technical Evaluation

6.2.4 *Identification and determination of deviations from the requirements should be addressed in Tables 1 and/ or 2 through the scores i.e. full, partial or nil.*

6.2.6 Capacity evaluation of the Tenderer shall be based on all the above as well as the following:-

a) *Capacity of the Treatment Plant as established by the documents submitted by the Tenderer*

b) *Where a Treatment Plant has issued a Manufacturer's Authorization to more than one Tenderer, REA shall carry out its evaluation based on the verified available maximum capacity of that Treatment Plant/ Manufacturer.*

Tenderers will proceed to Financial Evaluation stage only if they qualify in compliance with Parts I and II i.e. Preliminary and Technical stages.

6.3 Part III – Financial Evaluation Criteria under Paragraph 3.31 of the ITT. These are mandatory requirements.

6.3.1 This will include the following: -

a) *Confirmation of the authenticity and sufficiency of the submitted Tender Security.*

b) *Confirmation of and considering Price Schedule duly completed and signed.*

c) *Checking that the Tenderer has quoted prices based on Delivery Duty Paid (DDP) terms,*

d) *Checking submission bank Account details*

e) *Conducting a financial comparison, including conversion of tender currencies into one common currency,*

f) *Correction of arithmetical errors,*

g) *Taking into account the cost of any deviation(s) from the tender requirements,*

h) *Ascertaining the financial capability through Last Financial Year's audited financial statements. The statements will provide details for determining the liquidity and solvency status of the bidders. The applicable and acceptable ratios are as follows;*

   a) *The acceptable ratios to REA are as follows:-*

      (i.) *Current ratios i.e. current assets: current liabilities should meet the threshold of at least 0.5:1*

      ii) *Solvency ratios i.e. Debt to Assets Ratio. Should meet the threshold of at least 1:0.5*

      iii) *Turnover in the Last Financial Year i.e. twelve months of at least 75% of the total tender value.*

b) The Tenderer should have at least 10% of the total tender value in cash assets in the Balance Sheet provided as part of the audited financial statements.

c) For companies or firms that are registered or incorporated within the last one calendar year of the Date of the Tender Document, they will not be evaluated on (a) and (b) above, but will instead be evaluated on the basis of having at least a spot balance of 20% of the total tender value evident from the certified bank statements provided.*

i) Considering information submitted in the Confidential Business Questionnaire against other information in the bid including:-

a) Declared maximum value of business

b) Shareholding and citizenship for preferences where applicable.

6.3.2 Confirming the following: -

6.3.2.1 That the Supplier's offered Delivery Schedule meets REA's requirements.

6.3.2.2 That the Supplier's offered Terms of Payment meets REA's requirements.

***NOTES: -**

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

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

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

4. The spot balance of 20% required will be that which is seen in the certified bank statements at least in any day of the month of the Date of the Tender Document.

AWARD

The Award shall be in accordance with the following:-

1. Each location of delivery shall be considered an independent Lot.
2. There is no limit to the number of Lots a qualified bidder shall be entitled to for award.
3. There is no minimum number of poles a qualified bidder is entitled to for award. However each bidder must quote for at least 1,000 poles.
4. The successful bidder(s) shall be the one with the lowest price per pole to be determined in accordance with the Summary of Evaluation Process and Confirmation for Award, taking into account the following:-
   a) Capacity of Treatment Plant (Pressure Unit)
   b) Available capacity of the Manufacturer/ Treatment Plant.
   c) No. of poles available for the contract.
5. Once a qualified bidder has been awarded the maximum number of poles capable of being awarded to it, the immediate next qualified bidder shall be considered for award of the remaining poles in that Lot, or any other Lots if available, following the procedure in (4) above.
6. Subject to (4) above, the graduation in (5) above shall be adopted, with necessary changes until all the poles listed in this Tender Document are exhausted.

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SECTION VII – GENERAL CONDITIONS OF CONTRACT

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

7.1 Definitions

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

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

b) *"The Contract" means the agreements entered into between REA and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.*

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

d) *"The Goods" includes all of the equipment, machinery, and or other materials, which the Supplier is required to supply to REA under the contract.*

e) *"The Procuring Entity" means The RURAL ELECTRIFICATION AUTHORITY and Lighting Company Limited or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as REA).*

f) *"The Supplier" means the individual or firm supplying the goods under this contract or his/ her/ its permitted heir(s), personal representative(s), successor(s) or permitted assign(s) where the context so admits. For the avoidance of doubt this shall mean the successful Tenderer(s) pursuant to the tender.*

g) *Wherever used in the contract, "delivery" shall be complete or be deemed to be complete, unless the circumstances indicate otherwise, when the goods have been inspected and tested in accordance with the Contract and*

where REA does not signify its approval to the Supplier, but retains the goods without giving notice of rejection, on the expiration of thirty (30) days from date of documented receipt by the duly authorized representative of REA, of the goods, at REA stores or other indicated site.

7.2 Application

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

7.3 Country of Origin

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

7.3.2 The origin of Goods and Services is distinct from the nationality of the Supplier.

7.4 Standards

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

7.5 Use of Contract Documents and Information

7.5.1 The Supplier shall not, without REA's prior written consent, disclose the contract, or any provision thereof or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of REA in connection therewith, to any person other than a person employed by the Supplier in the performance of the contract.

7.5.2 The Supplier shall not, without REA's prior written consent, make use of any document or information enumerated in clause 7.5.1 above.

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

7.6 Patent Rights

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

7.7 Performance Security

7.7.1 Within twenty one (21) days of the date of the notification of contract award, the Supplier shall furnish to REA the Performance Security which shall be either one or a combination of the following:-

a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document.

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

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

7.7.3 The Performance Security shall be the sum of ten percent (10%) of the contract price. It shall be in the currency of the contract price.

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

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

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

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

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

7.8 Approval before Manufacture

7.8.1 All technical details and design drawings for the items to be supplied shall be submitted by the Supplier to REA for approval before manufacture.

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

7.9 Inspection and Tests

7.9.1 REA or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the contract specifications. REA shall notify the Supplier in writing in a timely manner, of the identity of any representative(s) retained for these purposes.

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

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

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

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

7.9.6 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of production, manufacture, delivery and or at the goods' final destination. If conducted on the premises of the Supplier 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 REA. In all cases, the equipment used for tests must be validly calibrated by the national standards body and a copy (ies) of the calibration certificate(s) must be submitted with the test report(s).

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

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

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

7.9.10 Notwithstanding any previous inspection(s) and test(s) REA shall inspect and may test the goods upon arrival at the indicated site. Where REA inspects and rejects the goods after the goods arrival, REA shall claim from the Supplier the

full cost of the goods including delivery charges to REA Stores or other indicated site and other incidental costs incurred in relation thereof.

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

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

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

7.10 Pre–Shipment Verification of Conformity (PVoC)

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

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

7.11 Packaging and Labelling

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

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

7.11.3 The labelling, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract.

7.11.4 The goods shall be packed in good condition suitable for sea/air/road/rail dispatch. Hazard in transit to the final destination shall include rough handling and storage in tropical conditions.

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

7.11.6 The Supplier shall ensure that all cases or packages shall be marked (painted) with bright pink bands five (5) inches 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.

7.11.7 The Supplier shall ensure that all lettering shall be no less than seven decimal five centimetres (7.5cm) or three inches (3”) high and each package shall be marked with the shipping marks indicating the supplier or supplier’s agent as the consignee.

7.12 Delivery and Documents for Foreign Goods

7.12.1 Delivery and or shipment of the goods shall be made by the Supplier to the place and in accordance with the terms specified by REA in its Schedule of Requirements.

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

a) The Supplier’s invoice showing the goods description, quantity, unit price, total amount

b) Non-negotiable airway bill or bill of lading

c) Packing list identifying contents of each package

d) Insurance certificate, where applicable

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

f) Approved drawings, brochures, catalogues and technical details

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

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

i) Certificate of Origin of the goods.

7.12.3 It is the responsibility of the Supplier to ensure shipping documents are received by REA at least one (1) week before the vessel docks or lands.

7.12.4 Any goods or products supplied without timely delivery or submission of the above mentioned shipping documents will not be released to importers until their quality is determined and will be held at the Supplier's expense.

7.12.5 Any late submission of shipping documents shall be treated as part of non-performance on the part of the Supplier and the Procurement Entity shall be entitled to call up the Performance Security. In addition REA shall upon demand, be entitled to receive any other amounts in excess including demurrage costs.

7.13 Delivery and Documents for Domestic Goods

7.13.1 Delivery of the goods shall be made by the Supplier to the place and in accordance with the terms specified by REA in its Schedule of Requirements.

7.13.2 The Supplier shall notify REA of the full details of the delivered goods by delivering together with the goods a full set of the following documents:-

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

b) Delivery note

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

d) Packing list identifying contents of each package

7.13.3 It is the responsibility of the Supplier to ensure that the delivery documents are received by REA at the designated delivery point at the time of delivery.

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

7.14 Transportation

7.14.1 Where the Supplier is required under the contract to deliver the goods FOB, transport of the goods, upto and including the point of putting the goods on board

the vessel at the specified port of loading shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the contract price.

7.14.2 Where the Supplier is required under the contract to deliver the goods CFR to Kenya, transport of the goods to the port of discharge or such other point in Kenya as shall be specified in the contract shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the contract price.

7.14.3 Where the Supplier is required under the contract to deliver the goods CFR, no further restriction shall be placed on the choice of the shipping line and or airline.

7.14.4 Where the Supplier is required to effect the delivery under any other terms, for example by post or to another address in the source country, the Supplier shall be required to meet all transport expenses until delivery.

7.14.5 In all the above cases, transportation of the goods after delivery shall be the responsibility of REA.

7.15 Insurance

7.15.1 The goods supplied under the contract shall be fully insured by the Supplier against loss or damage incidental to manufacture, production or acquisition, transportation, storage and delivery up to the port of loading where the goods are being delivered FOB or the port of discharge or such other point in Kenya as shall be specified in the contract where the goods are being delivered CFR.

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

7.16 Payment

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

7.16.2 Payment shall primarily be through REA's cheque or Real Time Gross Settlement (RTGS) or telegraphic transfer. Where applicable, a copy of a valid Performance Security, stamped, certified as authentic by REA, shall form part of the documents to be presented to REA before any payment is made. The terms shall be strictly on Delivered and Duty Paid (DDP) basis.

7.16.3 Suppliers who request for a Letter of Credit *(hereinafter abbreviated as LC)* –

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

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

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

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

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

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

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

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

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

7.17 Interest

Interest payment by REA is inapplicable in the contract.

7.18 Prices

7.18.1 Subject to clause 7.19 herein-below, prices charged by the Supplier for goods delivered and services performed under the contract shall, be fixed for the period of the contract with no variations.

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

7.19 Variation of Contract

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

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

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

c). *The cumulative value of all contract amendments shall not increase the total contract price by more than twenty five percent from the original contract sum.*

7.20 Assignment

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

7.21 Subcontracts

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

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

7.22 Termination of Contract

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

a) *if the Supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by REA.*

b) *if the Supplier fails to perform any other obligation(s) under the contract.*

c) *if the Supplier, in the judgment of REA has engaged in corrupt or fraudulent practices in competing for or in executing the contract.*

d) *by an act of force majeure.*

e) *if the Supplier becomes insolvent or bankrupt*

f) *if the Supplier has a receiving order issued against it, compounds with its creditors, or an order is made for its winding up (except for the purposes of its amalgamation or reconstruction), or a receiver is appointed over its or any part of its undertaking or assets, or if the Supplier suffers any other analogous action in consequence of debt.*

g) if the Supplier abandons or repudiates the Contract.

7.22.2 REA by written 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 the termination is for REA's convenience, the extent to which performance, by the Contractor, of the Contract, is terminated and the date on which such termination becomes effective.

7.22.3 For the remaining part of the Contract after termination for convenience, REA may pay to the Supplier an agreed amount for partially completed satisfactory deliveries.

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

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

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

7.23 Liquidated Damages

Notwithstanding and without prejudice to any other provisions of the contract, if the Supplier fails to deliver any or all of the goods within the period specified in the contract, REA shall, without prejudice to its other remedies under the contract, deduct from the contract prices, liquidated damages sum equivalent to
0.5% of the delivered or shipment price (whichever is applicable) per day of delay of the delayed items up to a maximum of ten percent (10%) of the delivered price of the delayed goods.

7.24 Warranty

7.24.1 The Supplier 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.

7.24.2 This warranty will remain valid for one (1) year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated

in the contract, or for eighteen (18) months after the date of shipment from the port of loading in the source country, whichever period concludes earlier.

7.24.3 REA shall promptly notify the Supplier in writing of any claims arising under this warranty.

7.24.4 Upon receipt of such a notice, the Supplier shall, with all reasonable speed, replace the defective goods without cost to REA.

7.24.5 If the Supplier having been notified fails to remedy the defect(s) within a reasonable period, REA 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 REA may have against the Supplier under the contract.

7.25 Resolution of Disputes

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

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

7.26 Language and Law

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

7.27 Waiver

Any omission or failure by REA to exercise any of its rights or enforce any of the penalties arising from the obligations imposed on the Supplier shall in no way,

manner or otherwise howsoever, alter, amend, prejudice, vary, waive or be deemed to alter, amend, prejudice, vary, waive or otherwise whatsoever any of REA's powers and rights as expressly provided in and as regards this contract.

7.28 Force Majeure

7.28.1 *Force majeure* means any circumstances beyond the control of the parties, including but not limited to: -

a) war and other hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;

b) ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel,

radioactive toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;

c) rebellion, revolution, insurrection, military or usurped power and civil war;

d) riot, commotion or disorder except where solely restricted to employees servants or agents of the parties;

e) un-navigable storm or tempest at sea.

7.28.2 Notwithstanding the provisions of the contract, neither party shall be considered to be in default or in breach of its obligations under the contract to the extent that performance of such obligations is prevented by any circumstances of *force majeure* which arise after the Contract is entered into by the parties.

7.28.3 If either party considers that any circumstances of *force majeure* are occurring or have occurred which may affect performance of its obligations it shall promptly notify the other party and provide reasonable proof of such circumstances.

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

7.28.5 If the Supplier incurs additional costs in complying with REA's directions under sub clause 7.28.4, then notwithstanding the provisions of the Contract, the amount thereof shall be agreed upon with REA and added to the contract price.

7.28.6 If circumstances of *force majeure* have occurred and shall continue for a period of twenty one (21) days then, notwithstanding that the Supplier may by reason thereof have been granted an extension of time for performance of the contract, either party shall be entitled to serve upon the other seven (7) days' notice to terminate the Contract. If at the expiry of the period of twenty-eight (28) days, *force majeure* shall still continue, the contract shall terminate.

SECTION VIII – SPECIAL CONDITIONS OF CONTRACT

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

No.	GCC Reference Clause	Particulars of SCC
1.	**7.16.1 Payment – Terms of Payment**	*The credit period shall be thirty (30) days from satisfactory delivery and submission of invoice together with other required and related documents.*
2.	**7.24.2 Warranty – Period of Period**	This warranty will remain valid for 25 years after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract, after the date of shipment from the port of loading in the source country.

SECTION IX - TENDER FORM

Date:
Tender No.

To:
RURAL ELECTRIFICATION AUTHORITY,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi, Kenya.

Ladies and Gentlemen,

1. Having read, examined and understood the Tender Document including all Addenda, the receipt of which is hereby duly acknowledged, we, the undersigned Tenderer, offer to supply, deliver, install and commission *(the latter two where applicable)* ……. *(insert goods description*) in accordance and conformity with the said tender document and in particular the Schedule of Prices that are made part of this Tender.

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

3. If our Tender is accepted, we will obtain the performance security of a licensed commercial bank in Kenya in a sum equivalent to ten percent (10%) of the contract price for the due performance of the contract, in the form(s) prescribed by RURAL ELECTRIFICATION AUTHORITY.

4.* We agree to abide by this Tender for a **period of……..…days (Tenderer please indicate validity of your tender)** from the date fixed for tender opening as per the Tender Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall not constitute a contract, between us. The contract shall be formed between us when both parties duly sign the written contract.

6. We understand that you are not bound to accept any Tender you may receive.

Yours sincerely,

_____

Name of Tenderer

_____

Signature of duly authorised person signing the Tender

_____

Name and Capacity of duly authorised person signing the Tender

_____

Stamp or Seal of Tenderer

NOTES:

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

SECTION X -
– CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM(FOR YOUTH, WOMEN & DISADVANTAGED GROUPS)

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

Part 1 – General

Business Name……

Location of business premises……

Plot No. ……Street/ Road ……..

Postal Address …….. Postal Code …….

Tel No……..

Facsimile..……..

Mobile and CDMA No…….

E-mail:……

Nature of your business ……..

Registration Certificate No……

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

Name of your Bankers ……..Branch… ……

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

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

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

……...

Part 2 (a) Sole Proprietor

Your name in full …….

Age……. Nationality ……Country of origin ……..…..

Part 2 (b) Partnership

Give details of partners as follows: -

Names Nationality Age Shares (%)

1……..…

2……..…

3…..……..……

4…….

5……..…….

Part 2 (c) Registered Groups

Give details of members as follows: -

Names Nationality Age Gender Shares (%)

1…….……..…

2…….……..…

3…..……..…….

4…….…….

5……..…….…….

Part 2 (d) Registered Company

Private or Public ……

State the nominal and issued capital of company-

*Nominal in KSh. …….

*Total Issued KSh. …….

Give details of all directors as follows

Name Nationality Age Shares (%)

1……..……..…….

2…….…….…….

3……..

4……..

5……..……..

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

Capacity of the duly authorized person……
Signature of the duly authorized person……..

<u>*NOTES TO THE TENDERERS ON THE QUESTIONNAIRE</u>

1. *Biiders shall attach their copies of the National Identity Card/ Passport*

2. *The address and contact person of the Tenderer provided above shall at all times be used for purposes of this tender.*

3. *The details on this Form are essential and compulsory for all Tenderers.* **Failure to provide all the information requested shall lead to the Tenderer's disqualification.**

SECTION XI A - TENDER SECURITY FORM – (BANK GUARANTEE)

(To Be Submitted On Bank's Letterhead) **Date:**
To:
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI

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

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

We undertake to pay you, upon your first written demand declaring the Tenderer to be in breach of the tender requirements and without cavil or argument, the entire sum of this guarantee being …….. (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

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

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

SEALED with the)

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

OR

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

_____

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

_____

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

NOTES TO TENDERERS AND BANKS

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

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

3. *The Tender validity period is ninety (90) days as set out in the Invitation to*

   Tender (at Section I of the Tender document) or as otherwise may be extended by REA. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.

SECTION XI C - TENDER SECURITY DECLARATION FORM

(The Bidder shall complete in this form in accordance with the instructions indicated)

Date:……
(insert date (as day, month, year) of Bid Submission)

Tender No…….
(Insert number of bidding process)

To:

Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI

We, the undersigned declare that.

1. We understand that, according to your conditions, bids must be supported by a bid-securing declaration.

2. We accept that we will be automatically be suspended from being eligible for bidding in any contract with the purchaser for the period of the time of (insert the 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 bid during the period of bid validity specified by us in the bidding 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 the contract, if required, or
        ii. Fail or refuse to finish the performance security, in accordance with the ITT

3. We understand that this bid securing declaration shall expire if we are not the successful bidder, upon the earlier of
    i. Our receipt of a copy of your notification of the name of the successful bidder; or
    ii. Twenty-eight days after the expiration of our tender.

4. We understand that if we are a joint venture, the bid 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 bid securing declaration shall be in the names of all future partners as named in the letter of intent.

Signed:……..
(insert signature of person whose name and capacity are shown)

in the capacity of……..
(insert legal capacity of person signing the bid securing declaration)

Name:……

(insert complete name of person signing the bid securing declaration)
Duly authorized to sign the bid for and on behalf of:
…….
(insert complete name of bidder)

Date on……. Day of……
(insert date signing)

SECTION XI C - TENDER SECURITY – (LETTERS OF CREDIT)

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

Part A

Form of Documentary credit - "Irrevocable Standby"

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

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

The SBLC should be available – "By Payment"

Drafts should be payable at - "SIGHT"

Documents required -

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

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

Additional Conditions -

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

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

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

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

Part B

The proceeds of these Letters are payable to REA -

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

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

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

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

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

NOTES TO TENDERERS AND BANKS.

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

2. *It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to any queries from REA. The period for response shall not exceed five (5) days from the date of REA's query. Should there be no conclusive response by the Bank within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*

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

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

SECTION XI A - TENDER SECURITY FORM – (SACCO SOCIETY, DEPOSIT TAKING MICRO FINANCE INSTITUTIONS & YOUTH ENTEPRISES FUND)

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

To:

Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI

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

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

We undertake to pay you, upon your first written demand declaring the Tenderer to be in breach of the tender requirements and without cavil or argument, the entire sum of this guarantee being …….. (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

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

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

EITHER

SEALED with the)
COMMON SEAL)

of the said **INSTITUTION**)

_____

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

OR

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

_____

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

_____

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

NOTES TO TENDERERS AND INSTITUTIONS

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

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

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

SECTION XII - MANUFACTURER'S AUTHORIZATION FORM

(To Be Submitted On Manufacturer's Letterhead)

To:
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI.

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

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

DATED THIS…….. DAY OF…….20……

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

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

NOTES TO TENDERERS AND MANUFACTURERS

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

SECTION XIII - DECLARATION FORM

Date _____

To:
RURAL ELECTRIFICATION AUTHORITY,
Stima Plaza,
Kolobot Road, Parklands,
P.O Box 30099 – 00100,
Nairobi,
KENYA.

Ladies and Gentlemen,

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

a) That I/ We have not been debarred from participating in public procurement by any body, institution or person.
b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Bidders.

Yours sincerely,

_____
Name of Tenderer

_____
Signature of duly authorised person signing the Tender

_____
Name and Capacity of duly authorised person signing the Tender

_____
Stamp or Seal of Tenderer

SECTION XIV – DRAFT LETTER OF NOTIFICATION OF AWARD

To: *(Name and full address of the Successful Tenderer)……* **Date:……**

Dear Sirs/ Madams,

RE: **NOTIFICATION OF AWARD OF TENDER NO. ……**

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

……
……

This notification does not constitute a contract. The formal Contract Agreement, which is enclosed herewith shall be entered into upon expiry of fourteen (14) days from the date hereof but not later than thirty (30) days after expiry of tender validity pursuant to the provisions of the Public Procurement and Disposal Act, 2005 *(or as may be amended from time to time or replaced).*

Kindly sign, and seal the Contract Agreement. Further, initial and stamp on all pages of the documents forming the Contract that are forwarded to you with this letter. Thereafter return the signed and sealed Contract together with the documents to us within fourteen (14) days of the date hereof for our further action.

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

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

Yours faithfully,
FOR: RURAL ELECTRIFICATION AUTHORITY

CHIEF MANAGER, SUPPLY CHAIN & LOGISTICS.
Enclosures

SECTION XV – DRAFT LETTER OF NOTIFICATION OF REGRET

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

Dear Sirs/ Madams,

RE: **NOTIFICATION OF REGRET IN RESPECT OF TENDER NO. ……**

We refer to your Tender dated…… and regret to inform you that following evaluation, your Tender is unsuccessful. It is therefore not accepted. The brief reasons are as follows:-

1. ……
2. ……
3. …… etc…

The successful bidder was _____.

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

You may collect the tender security from our *procurement Department (on the 6th Floor: The Chancery, Valley Road Nairobi* only after expiry of twenty five (25) days from the date hereof. It is expected that by that time REA and the successful bidder will have entered into a contract pursuant to the Public Procurement and Disposal Act, 2005 *(or as may be amended from time to time or replaced)*. When collecting the Security, you will be required to produce the original of this letter.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavours.
Yours faithfully,
FOR: RURAL ELECTRIFICATION AUTHORITY

CHIEF EXECUTIVE OFFICER

SECTION XVI - CONTRACT AGREEMENT FORM

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

AND

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

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

AND WHEREAS REA has accepted the Tender by the Supplier for the goods in the sum of **……(*REA specify the total amount in words which should include any payable taxes, duties and insurance where applicable e.g. Value Added Tax)*** (*hereinafter called "the Contract Price"*).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract and the Tender Document.

2. Unless the context or express provision otherwise requires: -
   a) reference to "this Agreement" includes its recitals, any schedules and documents mentioned hereunder and any reference to this Agreement or to any other document includes a reference to the other document as varied supplemented and or replaced in any manner from time to time.

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

c) words importing the masculine gender only, include the feminine gender

or (as the case may be) the neutral gender.

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

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

3. In consideration of the payment to be made by REA to the Supplier as hereinafter mentioned, the Supplier hereby covenants with REA to supply the goods and remedy any defects thereon in conformity in all respects with the provisions of the Contract.

4. REA hereby covenants to pay the Supplier in consideration of the proper supply 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.

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

a) this Contract Agreement
b) the Special Conditions of Contract as per the Tender Document
c) the General Conditions of Contract as per the Tender Document
d) the Price Schedules submitted by the Supplier and agreed upon with REA
e) the Technical Specifications as per REA's Tender Document
f) the Schedule of Requirements
g) REA's Notification of Award dated……
h) the Tender Form signed by the Supplier
i) the Declaration Form signed by the Supplier/ successful Tenderer
j) the Warranty

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

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

   a) Execution of this Contract Agreement by REA and the Supplier.
   b) Issuance of the Performance Bond by the Supplier and confirmation of its authenticity by REA.
   c) Issuance of the Official Order by REA to the Supplier.
   d) Where applicable, Opening of the Letter of Credit by REA.

8. The period of contract validity shall begin from the Commencement date and end on -
   a) sixty (60) days after the last date of the agreed delivery schedule, or,
   b) where a Letter of Credit is adopted as a method of payment, sixty (60) days after the expiry date of the Letter of Credit or the expiry date of the last of any such opened Letter of Credit whichever is later.

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

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

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

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

12. Notwithstanding proper completion of delivery or parts thereof, all the provisions of this Contract shall continue in full force and effect to the extent that any of

them remain to be implemented or performed unless otherwise expressly agreed upon by both parties.

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

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

14. For the purposes of Notices, the address of REA shall be Company Secretary, RURAL ELECTRIFICATION AUTHORITY, 7th Floor, Stima Plaza, Kolobot Road, Post Office Box Number 30099–00100, Nairobi, Kenya, Facsimile + 254-20-3750240/ 3514485. The address for the Supplier shall be the Supplier's address as stated by it in the Confidential Business Questionnaire provided in the Tender Document.

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

SIGNED FOR and on BEHALF
of **REA**

_____
COMPANY SECRETARY

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

_____ _____
DIRECTOR *Affix Supplier's Seal here*

_____
DIRECTOR'S FULL NAMES

and in the presence of:-

_____

DIRECTOR/ COMPANY SECRETARY

_____

DIRECTOR/ COMPANY SECRETARY'S FULL NAMES

*OR

SIGNED BY and on BEHALF
of the **SUPPLIER**

_____

SIGNATURE OF THE SUPPLIER

_____

FULL NAMES OF THE SUPPLIER

<u>*NOTES TO THE SUPPLIER</u>

1. *Please note that the alternative is applicable IF AND ONLY IF the Supplier is not a registered company but has tendered, and, is trading as a sole proprietor or a partnership as provided in the Confidential Business Questionnaire or is registered as a business name.*

2. *In all other cases, the Supplier is required to execute the contract as first provided.*

<u>DRAWN BY: -</u>
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
<u>NAIROBI</u>.

SECTION XVII A - PERFORMANCE SECURITY FORM (BANK GUARANTEE)

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

To:
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI

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

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

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

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

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

EITHER

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

)

this ……day)
)
of ……20….)
in the presence of :-)
)
_____)
)
and in the presence of:-)
)
_____)

_____
BANK SEAL

OR

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

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

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

NOTES TO SUPPLIERS AND BANKS

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

2. *REA shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to*

respond directly and expeditiously to queries from REA. The period for response shall not exceed five (5) days from the date of REA's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified.

SECTION XVII B - PERFORMANCE SECURITY (LC)

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

Form of Documentary credit - "Irrevocable Standby"

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

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

The SBLC should be available – "By Payment"

Drafts should be payable at - "SIGHT"

Documents required -

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

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

Additional Conditions -

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

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

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

Confirmation instructions – (See notes below)

NOTES TO SUPPLIERS AND BANKS

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

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

   response shall not exceed five (5) days from the date of REA's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security (LC) may be deemed as invalid and the Contract nullified.

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

SECTION XVII C - PERFORMANCE SECURITY FORM (SACCO SOCIETY, DEPOSIT TAKING MICRO FINANCE INSTITUTIONS & YOUTH ENTERPRISE FUND)

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

To:
Rural Electrification Authority
6th Floor: The Chancery, Valley Road
P.O. 34585 – 00100
NAIROBI

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

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

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

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

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

EITHER

SEALED with the)

COMMON SEAL)
of the said **INSTITUTION**)

)

this ……day) _____
) INSTITUTION SEAL
of ……20….)
in the presence of :-)
)
_____)
)
and in the presence of:-)
)
_____)

OR

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

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

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

NOTES TO SUPPLIERS AND INSTITUTIONS

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

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

SECTION XVIII - THE TECHNICAL SPECIFICATIONS

Technical specifications describe the basic requirements for goods. In addition to the information and documentation in the Tender Document regarding the technical aspects of this tender, all Tenderers shall comply with the following -

PART A - GENERAL REQUIREMENTS

1. Technical documentation shall be in English language. The specific items on offer shall be marked clearly for the goods they intend to supply.

2. The Tenderer shall submit the Schedule of Guaranteed Technical Particulars (GTP) completed by the Manufacturer. In submitting the GTP, cross-references should be made to the documents submitted.

3. Deviations from the tender specifications, if any, shall be explained in detail in writing, with supporting data including calculation sheets, detailed drawings and certified test reports and submitted together with the Tender. In submitting the deviations, cross-references should be made to the documents submitted. REA reserves the right to reject the goods if such deviations shall be found critical to the use and operation of the goods.

4. Detailed contact information including title, e-mail, facsimile, telephone or any other form of acceptable communication of the testing and standards body used shall be provided.

5. Where Type Test Certificates and their Reports and or Test Certificates and their Reports are translated into English, all pages of the translations must be signed and stamped by the testing authority.

6. A Copy of the manufacturer's valid quality management system certification i.e. ISO 9001 shall be submitted for evaluation. For locally manufactured goods this requirement is not mandatory but all Test Reports and Certificates shall be certified by the Kenya Bureau of Standard (KEBS) or its appointed agent(s), in which case a letter of Accreditation must be submitted.

7. In all cases where the level of galvanizing and painting is not specifically stated in the detailed Technical Specifications, the general requirement shall be for a uniform coating of thickness not less than 80 microns.

8. Suppliers are required to provide information on proper representative(s) and or workshop for back-up service and or repair and maintenance including their names, telephone, facsimile, e-mail, physical and postal addresses, along with their offers.

PART B – DETAILED TECHNICAL SPECIFICATIONS (DTS)

TECHNICAL SPECIFICATIONS TREATED WOODEN POLES

THE SPECIFICATIONS BELOW ARE AMENDED TO READ AS FOLLOWS:

For poles with a taper of 5mm per meter, the poles shall be of diameter class 180mm – top diameter. However, where the taper is more than 5mm per meter, a diameter class of 160mm shall be acceptable provided the Theoretical Ground – Line Diameter (TGL) shall not be less than 220mm. The supplier shall indicate the applicable class on the identification disc at the time of delivery as per the Clause 6.1 (f) of the technical specification.

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ANNEX A: Guaranteed Technical Particulars *(*to be filled and signed by the Manufacturer and submitted together with copies of relevant Manufacturer's catalogues, brochures, drawings, technical data, sales records and copies of test certificates and test reports for tender evaluation)

0.1 Circulation List

COPY NO.	COPY HOLDER
1	
2	
3	
4	
5	

0.2 Amendment Record

Rev No.	Date (YYYY-MM-DD)	Description of Change	Prepared by (Name & Signature)	Approved by (Name & Signature)
Issue 6 Rev 0	2010-05-14	Cancels and replaces Issue 5 Rev 1 dated July 2005	Head of Section TS&S/Senior Wood Scientist	Head of Department, R&D

FOREWORD

This specification has been prepared by the Research and Development Department in collaboration with the Senior Wood Scientist and Distribution Division all of The Kenya Power and Lighting Company Limited (KPLC) and it lays down requirements for treated wood poles (eucalyptus). It is intended for use by KPLC/REA in purchasing treated wood poles.

The supplier shall submit information which demonstrates manufacturer's satisfactory service experience with products which fall within the scope of this specification or equivalent.

1. SCOPE

This specification is for treated wooden poles of eucalyptus timber preserved with creosote or with a solution of copper, chromium and arsenic salts (or oxides), and intended to be used as upright supports for power transmission and distribution lines.

The specification also covers inspection and test of the poles as well as schedulof Guaranteed Technical Particulars to be filled, signed by the manufacturer and submitted for tender evaluation.

The specification stipulates the minimum requirements for treated wood poles of eucalyptus timber acceptable for use in the company (REA) and it shall be the responsibility of the Supplier to ensure adequacy of the design, good workmanship and good engineering practice in the manufacture of the poles for REA.

The specification does not purport to include all the necessary provisions of a contract.

2. REFERENCES

The following standards or their equivalents contain provisions which, through reference in this text constitute provisions of this specification. Unless otherwise stated, the latest editions (including amendments) apply.

KS 02-93	Glossaries of terms used in timber or equivalent
KS 02-94	Kenya standard specification for Preservation of timber or equivalent
KS 516:2008	Kenya standard specification for Wood poles for power and telecommunications lines or equivalent

3. TERMS AND DEFINITIONS

For the purpose of this specification the definitions given in the reference standards shall apply.

4. REQUIREMENTS

4.1. PREPARATION AND SEASONING

4.1.1. Species

Wood Poles shall be of any species of wood given in KS 516 or equivalent as shown in Table 1.

Table 1: Species of Wood

Standard or Trade Name	**Scientific Name**	**Other Names**
Iron Bark	*Eucalyptus paniculata*	Gum or Eucalyptus
Spotted Gum	*Eucalyptus citriodora (corymbia citiodora) or Eucalyptus maculata (corymbia maculate)*	Lemon Scented Gum or Eucalyptus
Tallow Wood	*Eucalyptus microcorys*	Spotted Gum or eucalyptus blue gum
Blue Gum	*Eucalyptus blobulus*	
Regnans saligna gum	*Eucalyptus regnans* *Eucalyptus saligna* *Or* *Eucalyptus grandis*	Giant Gum (mountain ash) Blue gum (Saligna gum) Or River Red Gum

4.1.2. Felling

The trees shall be cut as close to the ground level as possible. The ends shall be sawn to give a flat section and branches shall be dressed downflush with the trunk. The poles shall then be stacked in open crib formation on flat clear ground.

4.1.3. Moisture content

The average moisture content of individual poles at the time of treatment shall not exceed 25%.

4.1.4. Defects

The poles shall be of sound wood, free from decay, insect attack, rot pockets and any damages caused by handling and processing that would affect the strength of the poles.

Growth and seasoning defects (knots, spiral grain, end check, surface check and ring shakes) shall be limited to the requirements as set in KS 516:2008 or equivalent.

4.1.5. Straightness

A straight line from the centre of the butt to the centre of the tip shall lie entirely within the body of the pole.

Poles shall be free from crooks that deviate more than 75mm from straightness in any 2m length as shown in KS 516:2008 or equivalent.

4.1.6. Dimensions

4.1.6.1 The length of the pole shall conform to the values specified in the tables in clause 4.4, with a tolerance of ± 75mm.

4.1.6.2 Holes shall be drilled in the pole to support fittings and shall have a diameter of 18mm for pole size 10.0m, and 24mm for all other sizes, with a tolerance of ±1mm. Holes shall be on a straight line parallel to the axis of the pole and 90^0 to the diameter. The set of MV and the LV holes shall be 90^0 spaced on the surface of the pole. The table below shows the required drilling positions, measured from the top of the pole for each pole category.

STANDARD POLE LENGTH (m)	POSITION OF EACH HOLE FROM THE TOP OF THE POLE mm)					
	MV		LV			
Hole No. ⇒	1	2	3	4	5	6
10	-	-	150	455	760	1065
11	150	530	1400	1705	2010	2315
12	150	759	1674	1979	2284	2589

4.1.6.3 The butt end of the pole shall be cut square to within 5°. The top end shall be cut to a slant angle of 60° (- 0° + 5°) to the longitudinal axis (longer side).

4.1.6.3 Shaping and cutting of poles as well as drilling of holes shall be carried out before impregnation. Poles shall be shaved free of the bark, and branches shall be cut off neatly in the direction of growth and be dressed down flush with the trunk before impregnation.

4.2. IMPREGNATION

4.2.1. The poles shall have a minimum sap wood thickness of 15mm as observed at each end of pole.

4.2.2 The average moisture content of the pole at the time of impregnation shall be as indicated in clause 4.1.3, being expressed as a percentage on dry weight before treatment.

4.2.3. Impregnation shall be carried out using the full cell (vacuum-pressure) process according to Kenya standard specification KS 02-94 or equivalent.

4.2.4. The preservative used **shall be specified in the Tender document** but shall be either creosote in mineral oil base, or formulations of water soluble compounds of copper, chromium and arsenic (CCA), in accordance with Kenya standard specification KS 02-94 or equivalent; but as specifically required by REA in clause 4.2.5.

4.2.5. The penetration shall be complete in the sapwood and the retention shall be at levels not less than the following:

a) 100 kg/m^3 for Creosote

b) 20 kg/m^3 specific sapwood retention for CCA

Please note that these are weights of the Creosote and CCA retained per meter cubed of treated wood respectively. These preservatives are either creosote in mineral oil base, or formulations of water soluble compounds of copper, chromium and arsenic (CCA).

4.2.6 Care shall be taken to ensure that the poles have undergone complete preservative fixation and are safe to handle before delivery. Fixation period shall not be less than 72 hours after preservative impregnation.

4.3 BANDING, NAIL PLATES AND COLOUR CODING

4.3.1. Banding

4.3.1.1. Each end of pole shall be banded by not less than one band of galvanized mild steel strapping of width not less than 19mm and thickness not less than 1.2mm. The strapping is to be firmly tensioned into position by the use of a suitable strapping machine capable of applying a tensile force of not less than one half of the ultimate tensile strength of the strapping being used. Each band is to be nailed to the pole at four different positions evenly located on the pole using

galvanized clout nails of not less than 3mm diameter and length not less than 38mm.

4.3.1.2. The bands are to be applied not more than 100mm away from the end of each pole.

4.3.1.3. The banding shall be done after seasoning and dressing of the poles and prior to treatment.

4.3.2. Nail Plates

4.3.2.1. Nail plates shall be used only for flat or slant end cuts of the pole. The nail plate shall be made of galvanized steel with a zinc coating that complies with KS 592 or equivalent. The plate shall have a minimum thickness of 1.2mm and have a minimum nail length of 14mm. The size of the plate shall be such that the area covered by the plate is at least 60% of the area of applicable pole end.

4.3.2.2. Each nail shall be fully embedded in the pole end and no nail shall be bent. The nail plate shall be so positioned in the middle of a cut end that its edges do not protrude over the round face of the timber.

4.3.3. The nail plate used for poles shall be colour coded to facilitate size identification during handling and storage. The paint used for colour coding shall be indelible and in accordance with the table below:

STANDARD POLE LENGTH (M)		**COLOUR OF PAINT**
10.0	202.5mm TGL	PINK
	222.5mm TGL	GREEN
11.0		NAVY BLUE
12.0		YELLOW
14.0		RED
15.0		SKY BLUE
17.0		WHITE
18.0		ORANGE

Alternatively a permanent colour coded tag shall be used at both ends of each pole. The tag shall be made of galvanized steel plate at least 50mm x 50mm x 1.2mm and painted in accordance with the table above. It shall be secured by use of galvanized wire nails.

4.4 DIMENSIONS AND STRENGTH VALUES FOR POLES

LENGTH m	MINIMUM TOP DIAMETER mm	MINIMUM DIAMETER AT THEORETICAL GROUNDLINE mm	THEORETICAL GROUNDLINE (TGL) FROM BUTT m	FORCE REQUIRED TO CAUSE A FIBRE STRESS OF 55MPa (CANTILEVER LOADING) kN
10.0	160	202.5	1.8	5.67
10.0	180	222.5	1.8	7.52
11.0	180	227.5	1.8	7.13
12.0	180	232.5	1.8	6.85
14.0	200	262.5	2.0	8.20
15.0	220	287.5	2.0	9.93
16.0	220	292.5	2.0	9.71
18.0	200	282.5	2.0	7.65

5. TESTS AND INSPECTION

5.1 The treated wood poles shall be inspected and tested in accordance with the requirements of this specification, KS 02-94 and KS 516: 2008 or equivalent. It shall be the responsibility of the manufacturer to perform or to have performed the tests specified.

5.2 Copies of previous test certificates and test reports carried out by an internationally recognized independent testing laboratory outside the manufacturer's country. In case of the tests having been conducted by a National Testing Laboratory/Standards Authority, a copy of the accreditation certificate for the laboratory/standards authority shall also be submitted in accordance with IEC17025 requirements (all in English Language). A copy of the accreditation certificate for the laboratory shall also be submitted. Any translations of certificates and test reports into English language shall be signed and stamped by the Testing Authority.

Copies of Test Reports to be submitted shall include the following tests as per KS 02-94 and KS 516 or equivalent:

5.2.1 Ultimate Strength Test
5.2.2 Preservative Penetration Test;
5.2.3 Dimensions Test
5.2.4 Preservative Retention Test

5.2.5 Knots' Test
5.2.6 Splits and Checks Tests
5.2.7 Marking for Serialization and Traceability
5.2.8 Banding and/or Nail Plating
5.2.9 Straightness Test
5.2.10 General Defects Tests

5.3 Routine test reports for the wood poles shall be submitted to REA for approval before shipment/delivery of the goods. REA appointed inspectors (2) shall witness acceptance tests at the factory before shipment and such consignments presented for inspection shall not consist of less than 2,000 poles unless the order quantity is less.

5.4 On receipt of the wood poles, REA will inspect them and may perform or have performed any of the relevant tests in order to verify compliance with the specification. The manufacturer shall replace/rectify without charge to REA, wood poles which upon examination, test or use fail to meet any or all of the requirements in the specification.

5.5 Sampling

5.5.1 Lot: In a consignment, 500 poles or a part thereof of the same overall length, same dimensions and belonging to the same batch of manufacture shall be grouped together to constitute a lot.

5.5.2 For ascertaining the conformity of the poles in the consignment to the requirements of this specification, samples shall be tested from each lot separately.

5.5.3 The number of poles to be selected from the lot shall depend on the size of the lot and shall be according to the sampling table below.

5.5.4 All the poles selected according to 5.5.3 shall be tested for defects, physical dimensions and straightness. A pole failing to satisfy one or more of these requirements shall be considered as defective. All the poles in the lot shall be considered as conforming to these requirements if the number of defective poles found in the sample is less than or equal to the corresponding acceptance number given in Column 3 of the sampling table.

5.5.5 The lot having been found satisfactory according to 5.5.4 shall be further tested for ultimate load of the poles. For this purpose, the number of poles given in column 4 of the sampling table shall be tested, these poles may be selected from those already tested according to 5.5.4 and found satisfactory. All these poles tested for ultimate load shall satisfy the corresponding specification requirements. If one or more poles fail, twice the number of poles required for ultimate load tests shall be selected from the lot again and subjected to this test. If there is no

failure among these poles, the lot shall be considered to have satisfied the requirements of this test. If there is failure then the entire lot shall be rejected.

Sampling Table

No. of poles in the lot	Sample size	Defects and Dimensional Requirements acceptance number	Ultimate load test
Up to 100	10	1	1
101 to 200	15	1	1
201 to 300	20	2	1
301 to 500	30	3	2

6 MARKING

6.1 Each pole shall be legibly and indelibly marked with the following information:

a) The words **'PROPERTY OF REA'**
b) Manufacturer's name or trade mark
c) Date of treatment, comprising the first two digits of the month followed by the last two digits of the year separated by a slash
d) The number of the Kenya Standard to which the pole is manufactured, in this case, KS 516
e) Length of pole (in metres)
f) Top diameter (in mm)
g) Hazard class (In this case H4)
h) Species of pole
i) Method of treatment
All the markings shall be permanent.

6.2 The marking shall be placed at 3.5m from the butt of the pole.

6.3 Metal plates if used shall be corrosion resistant

……

ANNEX A: **<u>Guaranteed Technical Particulars</u>** *(to be filled and signed by the Supplier <u>for all clauses</u> and submitted together with copies of relevant manufacturer's* catalogues, brochures, drawings, technical data and type test certificates and type test reports *for tender evaluation)*

TENDER NO. ……..

CLAUSE NUMBER	DESCRIPTION	BIDDER'S OFFER
	Name & address of Manufacturer	
	Capacity of manufacturer (number of treated wood poles produced in a day)	
	List & contact addresses of previous customers of manufacturer for similar poles (last five years)	
1	Scope	
2	Reference Standards	
3	Definitions	
4.1.1	Species	
4.1.2	Felling	
4.1.3	Moisture content	
4.1.4	Defects	
4.1.5	Straightness	
4.1.6	Dimensions (tolerances)	
4.2.1	Sapwood thickness	
4.2.2	Moisture content at impregnation	
4.2.3	Impregnation (indicate process & standard)	
4.2.4	Preservative (indicate type & standard)	
4.2.5	Penetration & retention	
4.2.6	Fixation	
4.3.1	Banding	
4.3.2	Nail Plates	
4.3.3	Colour coding	
4.4	Length	
	Minimum top diameter	
	Minimum diameter at theoretical groundline	
	Theoretical groundline diameter from butt	
	Force required to cause a fibre stress of 55MPa (cantilever loading), kN	
4.5	Quality Management System (indicate certificate submitted)	
5.1	Test Standards	
5.2	List copies of previous test reports submitted to support the offer	

5.3	Routine/acceptance tests (also indicate quantities to be presented for inspection)	
5.4	Inspection & acceptance to REA stores	
5.5	Sampling	
6.	Marking (indicate parameters to be marked, method of marking & position of marking)	

…….

Supplier's Name, Signature, Stamp and Date