



RFX No. 1000000124

**PRE-QUALIFICATION FOR
PROVIDERS OF CARGO TRANSPORT SERVICES TO RURAL
ELECTRIFICATION AUTHORITY (REA), LOCAL BIDDERS
ONLY.**

FOR THE PERIOD DEC. 2018 - DEC. 2020

OCTOBER 2018

(E-PROCUREMENT SYSTEM)

RURAL ELECTRIFICATION AUTHORITY
KAWI HOUSE SOUTH C, BLOCK C,
BEHIND BOMA HOTEL
P.O. BOX 34585-00100,
NAIROBI, KENYA.
Email: procurement@rea.co.ke

All bidders are advised to read carefully this pre-qualification tender document in its entirety before making any bid. **(Ensure to read the appendix to instructions to tenderers)**

CONTENTS

SECTION I: INVITATION TO TENDER	3
SECTION II - TENDER SUBMISSION CHECKLIST	4
SECTION III. INSTRUCTIONS TO TENDERERS (ITT)	6
APPENDIX TO INSTRUCTIONS TO TENDERERS	8
SECTION IV: PRICE SCHEDULE	14
SECTION V: EVALUATION CRITERIA.....	16
SECTION VI: STANDARD FORMS	18
FORM 1. LETTER OF APPLICATION	18
FORM 2. STATEMENT OF THE TENDERER FORM	19
FORM 3 - DECLARATION FORM	20
FORM 4 - CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM.....	21
SECTION VII: STANDARD LETTERS TEMPLATES	23
SECTION VIII: CONDITIONS OF CONTRACT	27

SECTION I: INVITATION TO TENDER

PREQUALIFICATION OF SUPPLIERS FOR PROVISION OF TRANSPORT SERVICES

Rural Electrification Authority (REA) is a state corporation in Kenya. REA is in the process of preparing and maintaining a register for suppliers for Transport Services for period 2018-2020. Interested applicants are invited to apply for pre-qualification. Registered youth, Women and Persons with Disability firms are encouraged to apply.

RFX No.	ITEM DESCRIPTION	CLOSING/OPENING DATE	CATEGORY
1000000124	Provision of Transport Services	01.11.2018	OPEN

Tender documents detailing the requirements may be viewed at REA E-Procurement Web Portal found on the REA website (www.rea.co.ke) beginning on **10th OCTOBER, 2018**.

Completed Tenders are to be saved as PDF documents marked with prequalification numbers and description, to be submitted in the REA E-Procurement Web Portal found on the REA website (www.rea.co.ke) so as to be received on or before dates indicated above.

There will be a Pre-bid meeting to be held on **19th October, 2018** at the College of Insurance Nairobi South C.

Prequalification bids will be opened electronically promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend in REA Procurement Office Ground Floor.

NOTE

Physical bid documents shall not be admissible. All bids shall be submitted electronically through the portal.

MANAGER, PROCUREMENT
RURAL ELECTRIFICATION AUTHORITY

SECTION II - TENDER SUBMISSION CHECKLIST

2.0. The following documents shall form part of documents to be uploaded

NB: All copies of documents must be satisfied by a commissioner for oaths

No.	Item	Tick Where Provided
1	Letter of intention to bid	
2	Form of Tender	
3	Price schedule	
4	Declaration Form	
5	Confidential Business Questionnaire (CBQ)	
6	Copy of Valid Tax Compliance Certificate	
7	Copy of KRA ePIN Certificate	
8	Copy of Company or Firm's Registration Certificate	
9	CR 12 form not more than 3 months Old from tender closing	
10	Names with full contact as well as physical addresses of previous customers of similar services	
11	Valid Logbooks in company name or leased	
12	Insurance covers for trucks/cranes/forklifts/low loaders	
13	Kenya Transport Association Membership certificate	
14	List of vehicles detailing Registration Numbers, Log book numbers and Insurance numbers	
15	List of company drivers with attached copies of driver's driving license (BCE class-articulate) PSV Certificate and certificate of good conduct	
16	Financial Statements. The audited financial statements/certified Bank statement	
17	Submission of four (4) names with full contact as well as physical addresses of previous customers of similar services and letters from the previous customers confirming completion of the contracts on schedule.	

TABLE OF PARAGRAPHS ON INSTRUCTIONS TO TENDERERS

Paragraph No. Headings

- 3.1 Definitions
- 3.2 Eligible tenderers
- 3.3 Declarations of Eligibility
- 3.4 Pre-bid Meeting
- 3.5 Cost of Tendering
- 3.6 Obtaining the Tender documents
- 3.7 Clarification of Documents
- 3.8 Language of Tender
- 3.9 Tender Form
- 3.10 Tender Currencies
- 3.11 Conformity of Goods, Services and Works to Tender Documents
- 3.12 Demonstration(s), Inspections and Tests
- 3.13 Warranty
- 3.14 Preparation and Signing of the Tender
- 3.15 Deadline for Submission of Tenders
- 3.16 Opening of Tenders
- 3.17 Clarification of Tenders and Contacting REA
- 3.18 Tender Evaluation Period
- 3.19 Termination of Procurement Proceedings
- 3.20 Corrupt or Fraudulent Practices

SECTION III. INSTRUCTIONS TO TENDERERS (ITT)

3.1 Definitions

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

- a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.*
- b) *“Date of Tender Document” shall be the **start date** specified on the REA tendering portal.*
- c) *“Day” means calendar day and “month” means calendar month.*
- d) *“KEBS” wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*
- e) *“KENAS” wherever appearing means the Kenya National Accreditation Service or its successor(s) and assign(s) where the context so admits*
- f) *“PPRA” wherever appearing means The Public Procurement Regulatory Authority or its successor(s) and assign(s) where the context so admits.*
- g) *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.*
- h) *“The Procuring Entity” means Rural Electrification Authority or its successor(s) and assignee(s) where the context so admits (hereinafter abbreviated as REA).*
- i) *“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.*
- j) *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.*
- k) *Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*
- l) *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.*
- m) *REA’s “authorized person” shall mean its CEO who is designated by the PPAD Act 2015 to exercise such power, authority or discretion as is required under the tender and any contract arising therefrom, or such other REA staff delegated with such authority.*

- n) *Citizen bidders-means a person/firm wholly owned and controlled by person(s) who are citizens of Kenya.*
- o) *Local bidders- a firm shall be qualified as a local bidder if it is locally owned and registered in Kenya.*
- p) *Youth, women and Persons with Disability as per the Acts is used to mean*
Person with Disability - *means a person with disability who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of the directors are persons with disability*
Woman - *means a person of the female gender who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of its directors are of the female gender.*
Youth - *means a person who has attained the age of eighteen years and has not attained the age of thirty-five years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of shareholders are persons who have attained the age of eighteen years and have not attained the age of thirty-five years.*

3.2 Eligible Tenderers

- 3.2.1 A tenderer is eligible to bid for this contract only if the tenderer satisfies the following criteria—
- (a) the tenderer has the legal capacity to enter into a contract for procurement or asset disposal;
 - (b) the tenderer is not insolvent, in receivership, bankrupt or in the process of being wound up;
 - (c) the tenderer, if a member of a regulated profession, has satisfied all the professional requirements;
 - (d) the tenderer and his or her sub-contractor, if any, is not debarred;
 - (e) the tenderer has fulfilled tax obligations evidenced by Valid Tax Compliance Certificate.
 - (f) the tenderer has not been convicted of corrupt or fraudulent practices;
 - (g) is not guilty of any serious violation of fair employment laws and Practices and,
 - (h) The tenderer is not Procuring Entity's employees, committee members, board members and their relatives (spouse and children) as per section 66 paragraph 11 of the PPAD Act 2015 are not eligible to participate in the Pre-Qualification.

In addition, this Invitation to Tender is open to all Tenderers eligible as described in the invitation to tender.

APPENDIX TO INSTRUCTIONS TO TENDERERS

- Successful Tenderers shall provide the Goods, services and Works in accordance with this tender and the ensuing contract.
- 3.2.2 In addition the tenderer shall be considered ineligible to bid, where in case of a corporation, private company, partnership or other body, the tenderer, their spouse, child or sub-contractor has substantial or controlling interest and is found to be in contravention of the provisions of section 3.2.1 above.
- 3.2.3 Despite the provisions of section 3.2.1 and 3.2.2, a tenderer having a substantial or controlling interest shall be eligible to bid where—
- (a) such tenderer has declared any conflict of interest; and
 - (b) Performance and price competition for that good, work or service is not available or can only be sourced from that tenderer.
- 3.2.4 For the purposes of this paragraph, any relative i.e. spouse(s) and child(ren) of any person mentioned in sub-paragraph 3.2.3 is also ineligible to participate in the tender. In addition, a Cabinet Secretary shall include the President, Deputy President or the Attorney General of GoK.
- 3.2.5 Tenderers shall provide the qualification information statement that the Tenderer (including sub-Contractors) 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.
- 3.2.6 Tenderers shall not be under declarations as prescribed at Section VI.
- 3.2.7 Tenderers who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section VI.
- 3.2.9 Those that are under the Declaration as prescribed at Section VI 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 Declarations of Eligibility

- 3.3.1 Bidders shall not be under declarations of ineligibility for corrupt, fraudulent practices or any other reasons prescribed by the PPAD or any other law.
- 3.3.2 Bidders who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section VI.
- 3.3.3 Those that are under the Declaration for corrupt and fraudulent practices whether currently or in the past shall not complete the Form. They will submit a suitable Form giving details, the nature and present status of their circumstances.

3.4 Pre-Bid Meeting

- 3.4.1 REA will conduct a pre-bid meeting. The purpose of the pre-bid meeting shall be to clarify issues and answer any questions that may be raised at that stage.
- 3.4.2 Bidders' designated representative is invited to attend the pre-bid meeting which will take place on at the College of Insurance, Nairobi.
- 3.4.3 The Contractor is requested as far as possible to submit any questions in writing or electronically to reach REA through the Procurement Manager in address indicated in the Invitation to tender before the pre-bid meeting.
- 3.4.4 Minutes of the pre-bid meeting including the text of the questions raised and the responses given together with any response prepared after the pre-bid meeting may be transmitted to the downloaders of the Pre-Qualification tender Document.
- 3.4.5 Non-attendance during the pre-bid meeting will not be a cause of disqualification of the Pre-Qualification Tender.

3.5 Cost of Tendering

- 3.5.1 Bidders shall bear all costs associated with the preparation and submission of its Tender. REA will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 3.5.2 There are no charges for the Pre-Qualification tender Document.

3.6 Obtaining the Tender Document

- 3.6.1 Pre-Qualification Tender documents detailing the requirements may be obtained by downloading tenders online from the SRM portal and REA website (www.rea.co.ke). No tender documents will be issued from any REA office.
- 3.6.2 Interested bidders shall register their intention to bid by clicking register available in the supplier portal.
- 3.6.3 **A guide to bidding and tender submission is provided as annex to this tender document.**

3.7 Clarification of Documents

- 3.7.1 A prospective contractor requiring any clarification of the Pre-Qualification Tender Document may notify the Procurement Manager in writing or by post at REA's address indicated in the Invitation to Tender, at least 7 days before tender opening.
- 3.7.2 The request for clarification shall also be sent to the following:-

*The Manager, Procurement
Rural Electrification Authority,
P. O. Box 34585 – 00100,
Nairobi, Kenya.
Email: procurement@rea.co.ke*

- 3.7.3 REA will respond in writing to any request for clarification of the Pre-Qualification 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 published in the REA portal to be accessed by all prospective bidders before tender closing.

3.8 Language of Tender

- 3.8.1 The Tender prepared by the contractor, as well as all correspondence and documents relating to the tender, exchanged between the contractor and REA, shall be written in English language.
- 3.8.2 Any printed literature furnished by the contractor may be written in another language so long as 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 contractor's letterhead and shall be signed by the duly authorized signatory signing the Tender and stamped with the contractor's stamp.

3.9 Tender Form

The contractor shall complete and sign the Tender Form and all other documents furnished in the Pre-Qualification Tender Document, indicating the Good, services/works to be performed and all information required.

3.9.1 Charges for Services

- 3.9.2 The contractor shall indicate on the appropriate table labelled as Method of Charging for Good, Services/works the unit prices and rates (where applicable) when called upon to do render such Services.
- 3.9.3 The rates and prices shall be of costs for the Good, Services/works excluding VAT but inclusive of all other taxes and insurances payable.

3.10 Tender Currencies

- 3.10.1 The Tenderer shall indicate on the appropriate Price Schedule, the unit prices (where applicable) and total tender price of the Good, Services/works it proposes to provide under the contract.
- 3.10.2 Prices indicated on the Price Schedule shall be of all costs for the Good, Services/works including insurances, duties, Value Added Tax (VAT) and other taxes payable. No other basis shall be accepted for evaluation, award or otherwise.
- 3.10.3 Tender prices to be submitted (quoted) by the Tenderer shall remain fixed for the contract duration.
- 3.10.4 A price that is derived by a disclosed incorporation or usage of an international accepted standard formula shall be acceptable within the meaning of this paragraph.

3.11 Conformity of Goods, Services and Works to Tender Documents

- 3.11.1 The Tenderer shall furnish, as part of its tender, documents establishing the conformity to the Tender Document of all goods, services and works that the Tenderer proposes to perform under the contract.
- 3.11.2 The documentary evidence of conformity of the Good, Services/works to the Tender Document may be in the form of literature, drawings, and data, and shall (where applicable) consist of: -
- a) *a detailed description of the essential technical and performance characteristics of the services whether in catalogues, drawings or otherwise,*
 - b) *a list giving full particulars, including available source and current prices of spare parts, special tools and other incidental apparatus necessary for the proper and continuing performance of the services for a minimum period of two (2) years following commencement of the provision of the services to REA, and,*
 - c) *duly completed Statement of Compliance to REA's Details of Service demonstrating substantial responsiveness of the service to those Details or, a statement of deviations and exceptions to the provisions of the Details of Service.*

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

- 3.12.1 Where required in the tender, all bidders shall demonstrate ability of performance of the required service in conformity with the Details of Services.
- 3.12.2 REA or its representative(s) after giving reasonable notice to the bidders shall have the right to inspect/ test the contractor's capacity, equipment, premises, and to confirm their conformity to the tender requirements. This shall include any quality management system. REA's representative(s) retained for these purposes shall provide appropriate identification at the time of such inspection/ test/ visitation.
- 3.12.3 REA shall meet its own costs of the inspection/ test. Where conducted on the premises of the bidders (s), all reasonable facilities and assistance, including access to literature and documentation save for clients confidential information shall be furnished to the inspectors at no charge to REA.
- 3.12.4 Demonstration, Inspection/Test/Visitation Report(s) shall be completed by REA upon conclusion of the inspection/ tests/ visitations. This Report will be considered prior to appointment.

3.13 Warranty

- 3.13.1 Where required in the Tender, all Tenderers must also provide a Warranty that services to be rendered in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use or application of the services under the conditions obtaining in Kenya.
- 3.13.2 This warranty will remain valid for the period indicated in the special conditions of contract after the services, or any portion thereof as the case may be, have been rendered.

3.14 Preparation and Signing of the Tender

The Tender shall be typed or written in indelible ink. It shall be signed by the Tenderer or a person or persons duly authorized to bind the Tenderer to the contract.

3.14.2 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.

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

3.14.4 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 initialed by the person or persons signing the Tender.

3.15 Deadline for Submission of Tenders

3.15.1 Tenders must be received by REA by the date and time specified in REA's tendering portal in PDF form.

3.15.2 REA may, at its discretion, extend this deadline for submission of Tenders by amending the tender documents, 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.

3.15.3 The Authority's e-Procurement System will **NOT** allow upload, submission or any modification of bids after the deadline for tender submission.

3.15.4 Bidders are advised to avoid last minute submission as REA will not take responsibility or be held liable for any responses that are not received on time owing to system processing queues.

3.16 Opening of Tenders

3.16.1 REA shall open all Tenders promptly at the date and time specified in the REA tendering portal and at the location specified in the Invitation to Tender or as may otherwise be indicated.

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

3.17 Clarification of Tenders and Contacting REA

3.17.1 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.

- 3.17.2 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.
- 3.17.3 Any effort by a Tenderer to influence REA in its decisions on tender evaluation, tender comparison, tender recommendation(s) or signing of Agreement may result in the disqualification of the Tenderer.

3.18 Tender Evaluation Period

- 3.18.1 The Evaluation Committee may conduct and complete evaluation of the tender within thirty (30) days of the validity period.
- 3.18.2 Notwithstanding the above, the evaluation period as stated in the Evaluation Criteria may be extended by REA but in any event such evaluation will not exceed twenty one (21) days in the validity period of the tender.

3.19 Termination of Procurement Proceedings

- 3.19.1 REA may at any time terminate procurement proceedings before Notice of Appointment or Rejection and shall not be liable to any person for the termination.
- 3.19.2 REA shall give prompt notice of the termination to the bidders, and, on request from any law firm, give its reasons for termination within fourteen (14) days of such request.

3.20 Corrupt or Fraudulent Practices

- 3.20.1 REA requires that bidders 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.*
- 3.20.2 REA will nullify its notification of award if it determines that the contractor recommended has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 3.20.3 Further, a Tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

SECTION IV: PRICE SCHEDULE

1	TRANSPORTATION SERVICES FOR LOOSE CARGO	Rate (Ksh.) Vat Excl. Per Km
	GENERAL LOOSE CARGO AND ASSORTED MATERIALS	
	Over 500Kgs Tons Up to 10 Tons	
	Over 10 Tons Up to 20 Tons	
	Over 20 Tons Up to 28Tons	
2	TRANSFORMER CARGO BETWEEN REA STORES	Rate (Kshs.) Vat Excl. Per Km
	Over 500Kgs Tons Up to 10 Tons	
	Over 10 Tons Up to 20 Tons	
	Over 20 Tons Up to 28Tons	
3	HIRE OF FOLKLIFT AND TELELOGGER SERVICES	
A	WITHIN NAIROBI, KISUMU and MOMBASA	Rate in kshs. per hr
	Up to 2.5 tonnes	
	Over 2.5 Tons Up to 5 Tons	
	Above 5 Tons	
B	IN OTHER REGIONS	Rate in Kshs. per Hr
	Up to 2.5 tonnes	
	Over 2.5 Tons Up to 5 Tons	
	Above 5 Tons	
C	WITHIN OFF GRID POWER STATIONS REGION	Rate in Kshs. per Hr
	Up to 2.5 tonnes	
	Over 2.5 Tons Up to 5 Tons	
	Above 5 Tons	
4	HIRE OF CRANE SERVICES	
A	WITHIN NAIROBI, KISUMU AND MOMBASA	Rate in Kshs. per Hr
	Up to 3 tonnes	
	Over 3 Tons Up to 10 Tons	
	Over 10 Tons Up to 20 Tons	
	Over 20 Tons Up to 30 Tons	
	30 Tons and Above	
B	IN OTHER REGIONS	Rate in Ksh per Hr
	Up to 3 tonnes	
	Over 3 Tons Up to 10 Tons	
	Over 10 Tons Up to 20 Tons	
	Over 20 Tons Up to 30 Tons	
	30 Tons and Above	
C	WITHIN OFF GRID REGION POWER STATIONS	Rate in Ksh per Hr
	Up to 3 tonnes	
	Over 3 Tons Up to 10 Tons	
	Over 10 Tons Up to 20 Tons	
	Over 20 Tons Up to 30 Tons	
	30 Tons and Above	

5	MACHINERY ON LOW LOADER			
		TRANSPORTATION CHARGES - Rate (Ksh.) Vat Excl. Per Km	LOADING & OFFLOADING CHARGES Rate in Kshs per Hr	WAITING CHARGES Rate in Kshs per Hr
	ABOVE 20 and Up to 30			
	ABOVE 30 and Above			
6	TRANSPORTATION OF CONCRETE POLES STORE TO STORE/SITE (OR VICE VERSA)	TRANSPORTATION CHARGES Rate in (Ksh.) Per km Per Truck Load(Vat Excl.)	LOADING /OFF LOADING CHARGES (Rate Per Hr in Kshs.)	
	28 Tons Truck Load			
7	TRANSPORTATION OF WOODEN POLES FROM STORE TO STORE/SITE (OR VICE VERSA)	TRANSPORTATION CHARGES Rate in (Ksh.) Per km Per Truck Load(Vat Excl.)	LOADING /OFF LOADING CHARGES (Rate Per Hr in Kshs.)	
	Up to 10 Tons			
	10 Tons and Above			

NOTES

- 1.The Transporters will be required to render the services as and when required.
- 2.Transporters are required to observe government Axle Load Limits. For goods weighing 28 Tons transporters MUST obtain authority from the Government in line with the Axle load limits.
- 3.The tendered rates shall remain the same for the duration of the contract (3 years) for all types of roads (tarmac or non- tarmac).
- 4.Price quoted should be indicated on the prices schedule and not on the schedule of requirements.
- 5.Any cost accruing due to delay or negligence of the transporters shall be surcharged to the transporter.
- 6.All prices must be quoted with VAT Exclusive.
- 7.Successful applicants shall be awarded transport services at negotiated rates.

SECTION V: EVALUATION CRITERIA

5.1 EVALUATION OF PREQUALIFICATION APPLICATIONS

SUMMARY OF EVALUATION PROCESS

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

5.2.Preliminary Evaluation These are mandatory requirements.

1. This shall include confirmation of the following:
2. Submission of Declaration Form(s) duly completed and signed.
3. Submission and considering Tender Form duly completed and signed.
4. Submission and considering KRA ePIN certificate and Valid KRA Tax Compliance Certificate.
5. Submission of Company/Firm's Registration Certificate.
6. Confirmation of Submission of certified copy of CR12 form from registrar company for Limited Companies or a confirmation from registrar of Companies on the ownership of Sole proprietorship not more than 3 months old.
7. Submission and considering the Confidential Business Questionnaire duly completed signed and stamped.
8. Submission of Declaration Form(s) duly completed signed and stamped.
9. Submission and considering letter of application duly completed, signed and that the Tender is valid for the period required
10. Submission of up to date Company Profile
11. Submission and confirmation of Copies of Valid logbooks for minimum ten (10) Vehicles, low loader, crane and forklift in the company name or leased (lease agreements notarized by a notary public).
12. Confirmation that the tenderer has the fleet of vehicles necessary to perform the contract. Tenderer shall provide a list of trucks, forklift and cranes.. --List of company drivers with attached copies of driver's driving license (BCE class-articulate) PSV Certificate and certificate of good conduct.

13. Submission of atleast four (4) names with full contact as well as physical addresses of previous customers of similar services and letters of reference from previous customers confirming completion of the contracts on schedule.

Tenders will proceed to the Technical Stage only if they qualify in compliance with Part 1 above, Preliminary Evaluation under Paragraph 5.2.

5.3. Technical Evaluation these are mandatory requirements. It will include the following stages: -

Evaluation of the following technical information against Tender Requirements and specifications. This includes verification of:

Submission of Copies of Valid logbooks for Vehicles, low loaders cranes, and forklift in company name or leased.

Reference letters from 4 firms previously worked for.

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

5.4. Financial Evaluation These are mandatory requirements.

1. Checking submission of audited financial statements required which must be those that are reported within fifteen (15) calendar months of the date of the tender document.
2. 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.
3. Price comparisons of the rates offered
4. Successful applicants to be awarded transport services at negotiated rates.
5. Due diligence will be conducted on successful bidders at their premises to ascertain their fleet

SECTION VI: STANDARD FORMS

All forms must be Duly Filled, signed and Stamped by the Tenderer

FORM 1. LETTER OF APPLICATION

RFX No.

Date:

Rural Electrification Authority,
Kawi House, South C,
Behind Boma Hotel,
P.O. Box 34585 – 00100,
Nairobi, Kenya

Ladies and Gentlemen,

Having read, examined and understood all of the Pre-Qualification information provided in the Prequalification Document, the receipt of which is hereby duly acknowledged, we, the undersigned Candidate, hereby apply to be prequalified by yourselves as a potential supplier for..... *(RFX Description in full)*

2. We agree to abide by this Tender including all the terms for a **period of..... days (Candidate please indicate validity of your tender)** from the date fixed for tender opening as per the Prequalification Document, and for the **prequalification period of two years**, it shall remain binding upon us and may be accepted at any time before the expiration of that period.

3. This application, together with your written appointment thereof, shall not constitute a contract between us nor commit REA to any actual tender or amount of contract.

4. We understand that you are not bound to accept any application you may receive.

5. We declare that the statements made and the information provided in our prequalification tender document are complete, true, and correct in every detail.

Yours sincerely,

Name of Candidate_____

Name and Capacity of authorized person signing the Application_____

Signature of authorized person signing the Tender _____

Stamp or Seal of Candidate

NOTES:-

REA requires a validity period of at least ninety (120) days.

FORM 2. STATEMENT OF THE TENDERER FORM

1. Name of Tenderer_

2. Address_

3. Legal Status_

4. Registered Office_

5. Date of Registration_

(attach a copy certificate of registration)

6. Detailed description of physical address of the office (Town, Road/street name, building & office) (attach copies of the office lease agreement and rent receipts)

7. DIRECTORS (attach the Certificate of Confirmation of Directors and Shareholding)

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

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

FORM 3 - DECLARATION FORM

Date _____

**To: Rural Electrification Authority,
P.O Box 34585 – 00100,
Kawi House, South C, Behind Boma Hotel,
Nairobi, KENYA.**

Ladies and Gentlemen,

The Tenderer i.e. (full name and complete physical and postal address)_____

_____ declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Tenderers.
- d) That I/ We are not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- e) That I/ We are **not** associated with any other tenderer participating in this Tender.
- f) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.

Yours sincerely,

Name of Tenderer _____

Signature of duly authorized person signing the Tender _____

Name and Capacity of duly authorized person signing the Tender_____

Stamp or Seal of Tenderer

FORM 4 - CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

Part 1 – General

Business Name.....
Location of business premises.....
Plot No.Street/ Road
Postal Address Postal Code
Tel No..... Facsimile.....
Mobile and/ or CDMA NoE-mail:
Nature of your business
Registration Certificate No.....
Maximum value of business which you can handle at any time KShs.....
Name of your BankersBranch.....
*Names of Tenderer’s contact person(s)
Designation of the Tenderer’s contact person(s)
Address, Tel, Fax and E-mail of the Tenderer’s contact person(s)
.....

Part 2 (a) Sole Proprietor

Your name in full
Nationality Country of origin
*Citizenship details.....

Part 2 (b) Partnership

Give details of partners as follows: -

Names	Nationality	*Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			

Part 2 (c) Registered Company

Private or Public

State the nominal and issued capital of company-

Nominal KSh.....Issued KSh.....

Give details of all directors as follows

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

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

.....

Designation of the duly authorized person.....

Signature of the duly authorized person.....

NOTES TO THE CONTRACTOR ON THE QUESTIONNAIRE

1. The address and contact person of the contractor provided above shall at all times be used for purposes of this tender.
2. The details on this Form are essential and compulsory for all law firms. Failure to provide all the information requested may lead to the contractor's disqualification.

FORM 5 – LIST OF TRUCKS, CRANES, TELELOGGERS and FORKILIFTS

No.	TRUCK/LOGGER/LOW LOADER/FORKLIFT	MODEL	REGISTRATION No.	YEAR OF MANUFACTURE	INSURANCE No.	Tonnage	OWNED/LEASE D
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							

FORM 6: LIST OF COMPANY DRIVERS AND OPERATORS

No.	DRIVER NAME	TERMS OF EMPLOYMENT (Temporary/Contract/Permanent)	LICENSE CLASS	EXPIRY DATE	CERTIFICATE OF GOOD CONDUCT (Yes/No)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

SECTION VII: STANDARD LETTERS TEMPLATES

DRAFT LETTER OF NOTIFICATION OF AWARD

To:

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

Dear Sirs/ Madams,

RE:NOTIFICATION OF AWARD OF TENDER NO.

This is to notify that your tender for pre-qualification of bidders for

Your prequalification shall be subject to you meeting the following requirements:

- 1.Please acknowledge receipt of this letter of notification signifying your acceptance within a period of 14 days from the date of award.
2. The firm shall be required to put in place an annual Performance Bond from a reputable Commercial Bank of Kshs within 30 days from the date of award

This notification does not constitute a contract. The formal Contract agreement, shall be entered into as and when they arise pursuant to the provisions of the Public Procurement and Asset Disposal Act, 2015 (*or as may be amended from time to time or replaced*).

You may contact the Manager Procurement on the subject matter of this letter of notification of award.

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

Yours faithfully,

**FOR: RURAL ELECTRIFICATION AUTHORITY
CHIEF EXECUTIVE OFFICER**

Enclosures

DRAFT LETTER OF REGRET

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

Dear Sirs/ Madams,

RE: LETTER OF REGRET IN RESPECT OF TENDER NO.

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

- 1.....
- 2.
- 3. etc.

The successful bidder was _____.

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

You may collect the tender security from our Legal Department (Guarantees Section), on the 2nd Floor, Kawi House, South C, Behind Boma Hotel, Nairobi only after expiry of twenty five (25) days from the date hereof on Mondays and Wednesdays ONLY between 9.00 a.m to 12.30 pm and 2.00p.m to 4.00p.m.

It is expected that by that time REA and the successful bidder will have entered into a contract pursuant to the Public Procurement and Asset Disposal Act, 2015 (or as may be amended from time to time or replaced). When collecting the Security, you will be required to produce the original or certified copy of this letter.

We thank you for the interest shown in participating in this tender and wish you well in all your future endeavors.

Yours faithfully,

**FOR: RURAL ELECTRIFICATION AUTHORITY
CHIEF EXECUTIVE OFFICER**

SECTION VIII: CONDITIONS OF CONTRACT

1. Definitions

1.1 In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated;

“**Rates**” means the priced of Rates as will be specified in the Contract.

“**The Completion Date**” means the date of completion of the Works as certified by the Employer’s Representative and as will be specified in the Contract.

“**The Contract**” means the agreement entered into by the Employer and the Contractor as recorded in the Contract and signed by the parties.

“**The Contractor**” refers to the person or corporate body who has been appointed by the Employer to carry out the Works.

“**The Contract Price**” is the price stated in the Letter of award.

“**Days**” are calendar days; “**Months**” are calendar months.

“**A Defect**” is any part of the Works not completed in accordance with the Contract.

“**The Defects Liability Certificate**” is the certificate issued by Employer’s Representative upon correction of defects by the Contractor.

“**The Defects Liability Period**” is the period specified in the Appendix to Conditions of Contract Annex II and calculated from the Completion Date.

“**Drawings**” is the Drawings as will be specified in the Contract including calculations and other information provided or approved by the Employer’s Representative for the execution of the Contract.

“**Employer**” is the party who employs the Contractor to carry out the Works.

“**Equipment**” is the Contractor’s machinery and vehicles brought temporarily to the Site for the execution of the Works.

“**Site**” means the place or places where the permanent Works are to be carried out including Workshops where the same is being prepared.

“**Materials**” are all supplies, including consumables, used by the Contractor for incorporation in the Works.

“Employer’s Representative” is the person appointed by the Employer and notified to the Contractor for the purpose of supervision of the Works.

“Start Date” is the date when the Contractor shall commence execution of the Works.

“A SubContractor” is a person or corporate body who has a Contract with the Contractor to carry out a part of the Work in the Contract, which includes Work on the Site.

“Temporary Works” are Works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.

“A Variation” is an instruction given by the Employer’s Representative which varies the Works.

“The Works” are what the Contract requires the Contractor to construct, install, and handover to the Employer.

2. Employer’s Representative’s Decisions

- 2.1 The Employer’s Representative shall be the person specified in the Appendix to Conditions of contract.
- 2.2 Except where otherwise specifically stated, the Employer’s Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer.
- 2.3 The Employer’s Representative will also perform the following responsibilities on behalf of the Employer;
 - (i) Coordination of activities under this Contract,
 - (ii) Acceptance and approval of reports and of other deliverables, by the Contractor
 - (iii) Receiving invoices and approving the same for payment.

3. Works, Language and Law of Contract

- 3.1 The Contractor shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date as specified in Annex II and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Employer’s Representative, and complete them by the Expected Completion Date.
- 3.2 The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

4. Performance Bond

The Contractor shall within three (3) days after execution of contract, furnish the Employer with a Performance Bond in the form of an On Demand Bank Guarantee issued by a reputable Bank acceptable to the Employer. The Performance Bond shall be valid until the hand-over of the project by the Contractor to the Employer. The proceeds of the Performance Bond shall be payable to the Employer as compensation for any loss or delay resulting from the Contractor’s failure to complete or perform its obligations under the contract.

5. Safety, Temporary Works and Discoveries

- 5.1 The Contractor shall be responsible for design of temporary Works and shall obtain approval of third parties to the design of the temporary Works where required.
- 5.2 The Contractor shall be responsible for the safety of all activities on the Site.
- 5.3 Anything of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Employer's Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.

6 Work Program and Sub-contracting

- 6.1 Within seven days after Site possession date, the Contractor shall submit to the Employer's Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.
- 6.2 The Contractor may sub-contract the Works (but only to a maximum of 25 percent of the Contract Price) with the approval of the Employer's Representative. However, he shall not assign the Contract without the approval of the Employer in writing. Sub-contracting shall not alter the Contractor's obligations under the contract. Further it shall not vary the duration of the Works as will have been specified.

7 The site

- 7.1 The Employer shall give possession of all parts of the Site to the Contractor.
- 7.2 The Contractor shall allow the Employer's Representative and any other person authorized by the Employer's Representative to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

8 Issuance of materials to Contractors

The Employer shall only issue materials to persons duly authorized by the Contractor as will have been specified in the Contract. The issuance of materials shall be based only on a Materials Issue Voucher duly authorized by the Employer. The conditions of the issuance shall be as follows;

- (i) the Contractor shall provide names, identity card numbers and copies thereto, and two coloured passport photos of two (2) individuals, which individuals shall be the only ones authorized to pick materials on behalf of the Contractor from the Employer's stores.
- (ii) the Contractor shall give at least two (2) days notice to the Employer's stores personnel prior to the date in which they intend to pick the materials.
- (iii) the Contractor shall be held liable for any loss or damage to any materials issued by the Employer for the construction Works.
- (iv) the Contractor covenant to use only material issued by the Employer for the purposes of the construction Works. In the event that the contractor is found to be using different materials other than that issued by the employer, the Contractor shall be charged the full cost of the works and the contract terminated.
- (v) the Contractor shall be paid a standard rate of Ksh. 28/= per KM for any extra trip the contractor is required to undertake in transporting extra materials to site which were not available during collection of the initial project materials.

- (i) the Contractor covenants to engage competent staff who are able to professionally verify that the materials being issued by the Employer are of good quality and meant for use in the execution of the construction works awarded to the Contractor. The Contractor shall have the right to reject any defective materials at the point of collection. In the event that the Contractor fails to reject any defective materials, the Contractor's Performance Bond will be revoked forthwith and the contract terminated.
- (ii) the Contractor covenants to exercise due care while transporting all the material issued by the Employer to the site. The Contractor shall be held liable for any damaged materials in its possession.
- (iii) the Contractor covenants to visit the construction site before collecting any construction materials for purposes of ensuring that the design, drawings and the materials issued by the Employer reflect the correct situation on the ground. The Contractor shall be held liable for any defective works arising from failure to comply with the requirements under this sub clause.

9 Instructions

- 9.1 The Contractor shall carry out all instructions of the Employer's Representative which are in accordance with the Contract.

10 Extension of Completion Date

- 10.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Expected Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.

- 10.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by:-

- (a) force majeure, or
- (b) reason of any exceptionally adverse weather conditions, or
- (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or
- (d) reason of the Employer's Representative's instructions issued under these Conditions, or
- (e) reason of the Contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or
- (f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or
- (g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or

- (h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or
- (i) reason of delay in appointing a replacement Employer's Representative, or
- (j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or
- (k) Delay in receiving possession of or access to the Site

11 Management Meetings

11.1 A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Contractor. Its business shall be to review the plans for the remaining Work. The Employer's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.

11.2 Communication between parties shall be effective only when in writing.

12 Defects

12.1 The Employer's Representative shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Employer's Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However, if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.

12.2 The Employer's Representative shall give notice to the Contractor in writing of any defects before the end of the Defects Liability Period, which begins at Completion, and will be defined in the Appendix to Conditions of Contract.

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

13 Rates

13.1 The rates as will be specified in the Contract shall contain items for the construction, installation, testing and commissioning of the Works to be done by the Contractor. The Contractor will be paid for the quantity of the Works done at the rates as will be specified in the Contract for each item. Items against which no rate is entered by the Contractor will not be paid for when executed and shall be deemed covered by the rates.

14 Variations

- 14.1 If, during construction, the Contractor notices that there is need for variation of Works, the Contractor will be required to bring this to the attention of the Employer's Representative for approval and to commence redesigning of the Works.
- 14.2 The Contractor shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from the Employer, specifically, the authority of the Chief Executive officer before the variation is ordered.
- 14.3 If the Work in the variation corresponds with an item description as will be specified in the Contract and the rate shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in as will be specified in the Contract the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 14.4 If the Contractor's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based on the Employer's Representative's own forecast of the effects of the variation on the Contractor's costs. This however must have the prior approval of the Employer.
- 14.5 Payments arising out of such variations shall be made in accordance with the terms set out in the contract.
- 14.6 The Contractor covenants to submit to the Employer's representative any varied drawings clearly indicating the construction works as it is on the ground before connection of the new network to existing system.

15 Payment Certificates and Final Account

- 15.1 The Contractor shall be paid after completing to the satisfaction of the Employer each of the following stages of Work listed here below (subject to re-measurement by the Employer's Representative of the Work done and return to the Employer's store of all unutilized materials in the same state, quality and condition the materials were at the time of collection in each stage before payment is made).
 - (i) First stage: 30% of the contract price upon completion of a medium voltage line. This shall be subject to notification by the Contractor of the completion of the medium voltage line and inspection by the Employer's Representative. The inspection shall be carried out within two (2) weeks of notification by the Contractor.
 - (ii) Second stage: 60% of the contract price upon completion of the Works and Commissioning of the project. This will be subject to:
 - Inspection by the Employer's Representative to confirm that the Works have been completed as per the acceptable standards.
 - Inspection by the Employer's Representative to confirm that the commissioning has been as per the acceptable standards.
 - If in the course of inspection the Employer discovers any defects, the Contractor will be required to rectify such defects within a specified period of time.
 - The issuance of a Certificate of Completion and Commissioning by the Employer.
 - (iii) Third stage: 10% after the expiry of the defects liability period.

- (iv) Upon completing Works included in a particular stage as specified in paragraph 15.1 hereinabove, the Contractor shall notify the Employer's Representative of the completed works in writing and shall request for payment of the completed works.
- (v) The employer's representative shall inspect the works within 14 days of the request of payment by the contractor. If the employer's representative is satisfied with the works, a certificate shall be issued.
- (vi) After receiving the certificate, the contractor shall prepare an invoice and send it to the Employer. The Employer's representative shall check, adjust if necessary and certify the amount to be paid to the contractor. The Employer shall pay the amount it has certified to the contractor within 30 days from the date of receipt of each interim invoice.
- (vii) If the Employer's representative will not have inspected the works within 14 days as indicated above, the contractor shall be legible to submit an invoice to the Employer for payment on the basis of the contractor's notification. The Employer shall make payments within 30 days from the date of receipt of the invoice.
- (viii) The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Employer's Representative shall issue within 21 days a schedule that states the scope of the corrections or additions that are necessary. If the final account is still unsatisfactory after it has been resubmitted, the Employer's Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. The Employer shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate.
- (ix) Further and without prejudice to the payment schedule stated under this Clause any Contractor who after completing the first and second stage and commissioning of the project shall be entitled to be paid 90% of the contract price provided that such works is certified by the Chief Manager Operations or the Employer's representative.

16 Insurance

16.1 The Contractor shall be responsible for and shall take out appropriate covers as follows;

- i. Third Party motor vehicle liability insurance in respect of motor vehicles operated by the Contractor or its Personnel or any Sub-Consultants or their Personnel;
- ii. Professional liability insurance
- iii. Employer's liability and workers' compensation insurance in respect of the Personnel of the Contractor in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate.

- iv. Insurance against loss of or damage to the Works, materials and plant and loss of or damage to property or physical damage to all equipment purchased/used within the performance of the Works. The limit of the cover shall be K.Shs.10 million. The said insurance cover should be issued in the joint names of the Employer and the Contractor.
- V Copies of certificates evidencing that the said insurances have been taken out shall be provided to the Employer.

17 Liquidated Damages

The Contractor shall pay liquidated damages to the Employer at the rate of 0.5 per cent of the Contract price per day for each day of delay until the Completion of the works except in the case of any of the occurrences listed under Sub clause 10.2. The Employer shall deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

18 Completion and Taking Over

- 18.1 Upon deciding that the Work is complete the Contractor shall request the Employer's Representative in writing to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.
- 18.2 The Employer shall issue the Certificate of completion within seven (7) days of receipt of notice by the Contractor.
- 18.3 The Employer shall take over the Site and the Works within seven Days (7) of the Employer's Representative issuing a Certificate of Completion.

19 Termination

- 19.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following:
 - (a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
 - (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (c) a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 45 days after the expiry of the payment periods stated in sub clauses 15.1 hereinabove.
 - (d) The Employer's Representative gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time.
 - (e) the Contractor has not put in place the required insurance as at the Start Date as will be specified in the Contract
 - (f) the Contractor losses or damages any material issued by the Employer for the purposes of the construction Works.
- 19.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

20 Payment Upon Termination

- 20.1 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials, plant, equipment and temporary Works.
- 20.2 The Contractor shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.
- 20.3 Until after completion of the Works under this clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefore the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

21. Corrupt Gifts and Payments of Commission

21.1 The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or disfavour to any person in relation to this or any other contract with the Employer.
- (b) Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the Laws of Kenya.

22. Settlement of Disputes

- 22.1 Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.