INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

PROCURING ENTITY	**INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION**
ADDRESS	**ANNIVERSARY TOWERS OFF UNIVERSITY WAY P.O BOX 45371-00100 NAIROBI KENYA**
EMAIL ADDRESS	**Email Address: info@iebc.or.ke**
INVITATION TO TENDER(ITT) NUMBER	**IEBC/OIT/01/2026 - 2027**
TENDER NAME	**SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, SUPPORT AND MAINTENANCE OF THE INTEGRATED ELECTIONS MANAGEMENT SYSTEM (IEMS), HARDWARE EQUIPMENT AND ACCESSORIES**
PROCUREMENT METHOD	**OPEN INTERNATIONAL TENDER**
CONTRACT TYPE	**FRAMEWORK CONTRACT**
CONTRACT PERIOD	**THREE (3) YEAR**
ISSUANCE DATE	**11TH AUGUST, 2026**
CLOSING DATE	**1ST SEPTEMBER, 2026**
CLOSING TIME	**AT 10:00 AM EAST AFRICAN TIME (7.00 A.M GMT)**

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INVITATION TO TENDER (ITT)

PROCURING ENTITY: INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC).

CONTRACT NAME AND DESCRIPTION: SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, SUPPORT AND MAINTENANCE OF THE INTEGRATED ELECTIONS MANAGEMENT SYSTEM (IEMS), HARDWARE EQUIPMENT AND ACCESSORIES

1. The **Independent Electoral and Boundaries Commission (IEBC)** invites sealed tenders for the Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the Integrated Elections Management System (IEMS), Hardware Equipment and Accessories.

2. Tendering will be conducted under open competitive method International using a standardized tender document. Tendering is open to all eligible, qualified and interested Tenderers.

3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents ***at the IEBC Procurement Office located at Anniversary Towers Fifth Floor Room No. 525 during normal working hours, Monday to Friday, 8.00a.m. - 1:00 p.m. and 2.00p.m. - 4.30p.m***.

4. A complete set of tender documents in PDF may be obtained by interested tenderers by downloading free of charge from IEBC Website at www.iebc.or.ke or from Public Procurement Information Portal (PPIP website) www.tenders.go.ke.

5. Tenderers who download the tender document must forward their particulars immediately to procurement@iebc.or.ke to facilitate any further clarification or addendum. The procedures to be followed will be as follows: -
   - **A.** Download the tender document
   - **B.** Write to the Commission through procurement@iebc.or.ke for registration
   - **C.** Submit question(s) for clarification if any
   - **D.** Submission of question(s) MUST be not later than 7 days to the submission deadline.

6. All clarifications should be addressed to:
   Head of Procurement,
   Independent Electoral and Boundaries Commission (IEBC),
   Anniversary Towers, University Way, Fifth Floor
   P. O Box 45371-00100
   ***TEL; (254) 020 2769000*.**

7. There shall be an online pre-bid conference at 7.00 a.m GMT (10.00 a.m EAT) on 18th August, 2026 through a link that will be shared with interested tenderers who will send their email through procurement@iebc.or.ke before the said date.

8. Kenya Shillings Thirty Million (KES 30,000,000) from a reputable financial institution, Insurance Company or a banker's cheque payable to the Independent Electoral and Boundaries Commission and must be valid for Two Hundred and Seventy days (270) days after bid submission deadline

9. Completed tenders must be deposited in the Tender Box at the 5th Floor reception, Anniversary Towers, so as to be received on or before 1st September, 2026 **10:00am Kenyan Time**. Electronic Tenders will not be permitted.

The Commission Secretary /CEO
Independent Electoral and Boundaries Commission (IEBC), Anniversary Towers, University Way, Fifth Floor
P O Box 45371-00100,
Nairobi

10. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.

11. Late tenders will be rejected.

PART 1 - TENDERING PROCEDURES

SECTION I - INSTRUCTIONS TO TENDERERS (ITT)

Section I - Instructions to Tenderers

A. GENERAL

1. Scope of Tender

1.1 The Procuring Entity, as indicated **in the TDS**, issues this tendering document for the supply and installation of the Information System as specified in Section V, Procuring Entity's Requirements. The name, identification and number of lots (contracts) of this ITT are specified **in the TDS.**

2. Definitions

2.1 Unless otherwise stated, throughout this tendering document definitions and interpretations shall be as prescribed in the Section VI, General Conditions of Contract.

2.3 Throughout this tendering document:

a) The term "in writing" means communicated in written form (e.g., by mail, e-mail, fax, including if specified in the **TDS**, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;
b) If the context so requires, "singular" means "plural" and vice versa; and
c) "Day" means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that is an official working day of the Procuring Entity. It excludes the Procuring Entity's official public holidays.
d) "Information System" shall carry the same meaning as "Information Technology".

3. Fraud and Corruption

3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

3.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/ or civil sanctions may be imposed. To this effect, Tenderers shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

3.3 Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. The Procuring Entity shall indicate in the TDS firms (if any) that provided consulting services for the contract being tendered for. The Procuring Entity shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The Procuring Entity shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

3.4 Tenderers shall permit and shall cause their agents (whether declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, pre-qualification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

4 Eligible Tenderers

4.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 4.6, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter in to such an agreement supported by a Form of Intent. Public employees and their close relatives *(spouses, children, brothers, sisters and uncles and aunts)* are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the contract in accordance with the

Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the contract, during contract execution. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the **TDS.**

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

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

a. Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or

b. Receives or has received any direct or indirect subsidy from another Tenderer; or

c. Has the same legal representative as another Tenderer; or

d. Has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or

e. Any of its affiliates participates as a consultant in the preparation of the design or technical specifications of the Information System that are the subject of the Tender; or

f. Or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity as Project Manager for the Contract implementation; or

g. Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDSITT2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or

h. Has a close business or family relationship with a professional staff of the Procuring Entity who: -

i. Are directly or in directly involved in the preparation of the tendering document or specifications of the Contract, and/ or the Tender evaluation process of such Contract. or

ii. Would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the Tendering process and execution of the Contract.

4.4 A firm that is a Tenderer (either individually or as a JV member) shall not participate as a Tenderer or as JV member in more than one Tender except for permitted alternative Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. However, this does not limit the participation of a Tenderer as subcontractor in another Tender or of a firm as a subcontractor in more than one Tender.

4.5 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case maybe. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub- consultants for any part of the Contract including related Services.

4.6 A Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.

4.7 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not under supervision of the Procuring Entity.

4.8 Firms and individuals may be ineligible if (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import

of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

4.9 The Procuring Entity may require tenderers to be registered with certain authorities in Kenya. Such registration shall be defined in the **TDS**, but care must be taken to ensure such registration requirement does not discourage competition, nor exclude competent tenderers. Registration shall not be a condition for tender, but where a selected tenderer is not so registered, the tenderer shall be given opportunity to register before signing of the contract.

4.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in "SECTION III- EVALUATION AND QUALIFICATION CRITERIA, Item 9".

4.11 Pursuant to the eligibility requirements of ITT 4.11, a tenderer is considered a foreign tenderer, if it is registered in Kenya, has less than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms are registered in Kenya have less than 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

4.12 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke

4.13 Tenderers shall be considered ineligible for procurement if they offer goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment.

4.14 A Kenyan tenderer shall be eligible to tender if it provides evidence of having fulfilled his/her tax obligations by producing a valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

5 Eligible Goods and Services

5.1 The Information Systems to be supplied under the Contract may have their origin in any eligible country.

5.2 For the purposes of this tendering document, the term "Information System" means all:

i. the required information technologies, including all information processing and communications-related hardware, software, supplies, and consumable items that the Supplier is required to supply and install under the Contract, plus all associated documentation, and all other materials and goods to be supplied, installed, integrated, and made operational; and

ii. the related software development, transportation, insurance, installation, customization, integration, commissioning, training, technical support, maintenance, repair, and other services necessary for proper operation of the Information System to be provided by the selected Tenderer and as specified in the Contract.

5.3 For purposes of ITT 5.1 above, "origin" means the place where the goods and services making the Information System are produced in or supplied from. An Information System is deemed to be produced in a certain country when, in the territory of that country, through software development, manufacturing, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

5.4 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement under this Act.

B. CONTENTS OF TENDERING DOCUMENT

6 Sections of Tendering Document

PART 1 - Tendering Procedures

Section I - Instructions to Tenderers (ITT)

Section II - Tender Data Sheet (TDS)

Section III - Evaluation and Qualification Criteria

Section IV - Tendering Forms

PART 2 - Procuring Entity's Requirements

Section V - Requirements of the Information Systems

PART 3 - Conditions of Contract and Contract Forms

Section VI - General Conditions of Contract

Section VII - Special Conditions of Contract

Section VIII - Contract Forms

Section IX - Background and Informational Materials

6.1 The Invitation to Tender Notice issued by the Procuring Entity is not part of this tendering document.

6.2 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

6.3 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

7 Site Visit

7.1 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering in to a contract for the Services. The costs of visiting the Site shall beat the Tenderer's own expense.

8 Pre-Tender Meeting and a pre- arranged pretender visit of the site of the works

8.1 The Procuring Entity shall specify in the **TDS** if a pre-tender conference will be held, when and where. The Procuring Entity shall also specify in the **TDS** if a pre-arranged pretender visit of the site of the works will be held and when. The Tenderer's designated representative is invited to attend a pre-arranged pretender visit of the site of the works. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

8.2 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.

8.3 Minutes of the pre-Tender meeting and the pre-arranged pre-tender visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

8.4 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-Tender meeting

and the pre-arranged pre-tender visit of the site of the works at the web page identified in the TDS. Any modification to the Tender Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 10 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9 Clarification of Tender Documents

9.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the TDS or raise its enquiries during the pre-Tender meeting and the pre- arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the TDS prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification resulting changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents appropriately following the procedure under ITT 10.

10 Amendment of Tendering Document

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

10.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's webpage in accordance with ITT 8.1.

10.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 24.2 below.

C. PREPARATION OF TENDERS

11 Cost of Tendering

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

12 Language of Tender

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

13 Documents Comprising the Tender

13.1 The Tender submitted by the Tenderer shall comprise the following:

a. **Form of Tender** prepared in accordance with ITT 14;
b. **Price Schedules** completed in accordance with ITT 14 and ITT 16;
c. **Tender Security or Tender-Securing Declaration** in accordance with ITT 22;
d. **Alternative Tender:** if permissible, in accordance with ITT 15;
e. **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 23.3;
f. **Eligibility of Information System:** documentary evidence established in accordance with ITT 16.1 that the Information System offered by the Tenderer in its Tender or in any alternative Tender, if permitted, are eligible;

g. **Tenderer's Eligibility:** documentary evidence in accordance with ITT 17 establishing the Tenderer's eligibility and qualifications to perform the contract if its Tender is accepted;

h. **Conformity:** documentary evidence established in accordance with ITT 18 that the Information System offered by the Tenderer conform to the tendering document;

i. **Subcontractors:** list of subcontractors, in accordance with ITT 18.4;

j. **Intellectual Property**: a list of: Intellectual Property as defined in GCC Clause 15;

i) All Software included in the Tender, assigning each item to one of the software categories defined in GCC Clause1.1(C):

a. System, General Purpose, and Application Software; or

b. Standard and Custom Software;

iii. All Custom Materials, as defined in GCCClause1.1(c), included in the Tender;

All Materials not identified as Custom Materials shall be deemed Standard Materials, as defined in GCC Clause 1.1 (c); Re-assignments among the Software and Materials categories, if necessary, will be made during the implementation of the Contract according to GCC Clause 39 (Changes to the Information System); and

k. Any other document required **in the TDS.**

13.2 In addition to the requirements under ITT 13.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members indicating at least the parts of the Information System to be executed by the respective members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the information System to be executed by the respective members.

13.1 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender. The Tenderer shall serialize page so fall tender documents submitted.

14 Form of Tender and Price Schedules

14.1 The Tenderer shall complete the Form of Tender, including the appropriate Price Schedules, using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 21.3. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize all pages of the tender documents submitted.

15 Alternative Tenders

15.1 The TDS indicates whether alternative Tenders are allowed. If they are allowed, the **TDS** will also indicate whether they are permitted in accordance with ITT 13.3, or invited in accordance with ITT 13.2 and/or ITT 13.4.

15.2 When alternatives to the Time Schedule are explicitly invited, a statement to that effect will be included **in the TDS**, and the method of evaluating different time schedules will be described in Section III, Evaluation and Qualification Criteria.

15.1 Except as provided under ITT 15.4 below, Tenderers wishing to offer technical alternatives to the Procuring Entity's requirements as described in the tendering document must also provide: (i) a price at which they are prepared to offer an Information System meeting the Procuring Entity's requirements; and (ii) all information necessary for a complete evaluation of the alternatives by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed installation methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

15.4 When Tenderers are invited **in the TDS** to submit alternative technical solutions for specified parts of the system, such parts shall be described in Section V, Procuring Entity's Requirements. Technical alternatives that comply with the performance and technical criteria specified for the Information System shall be considered by the Procuring Entity on their own merits, pursuant to ITT 35.

16 Documents Establishing the Eligibility of the Information System

16.1 To establish the eligibility of the Information System in accordance with ITT 5, Tenderers shall complete the country-of-origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.

17 Documents Establishing the Eligibility and Qualifications of the Tenderer

17..1 To establish its eligibility and qualifications to perform the Contracting accordance with Section III, Evaluation and Qualification Criteria, the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tendering Forms.

17.1 In the event that pre-qualification of potential Tenderers has been undertaken as stated **in the TDS**, only Tenders from pre-qualified Tenderers shall be considered for award of Contract. These qualified Tenderers should submit with their Tenders any information updating their original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission.

17.2 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

17.3 The purpose of the information described in ITT 15.1 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

17.4 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control, any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

17.5 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

17.6 If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.

17.7 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

a. If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,
b. If the contract has been awarded to that tenderer, the contract award will be set aside,
c. the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

17.8 If a tenderer submits information pursuant to these requirements that is in complete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

18 Documents Establishing Conformity of the Information System

18.1 Pursuant to ITT 11.1(h), the Tenderer shall furnish, as part of its Tender documents establishing the conformity to the tendering documents of the Information System that the Tenderer proposes to design, supply and install under the Contract.

18.2 The documentary evidence of conformity of the Information System to the tendering documents including:

a) Preliminary Project Plan describing, among other things, the methods by which the Tenderer will carry out its overall management and coordination responsibilities if awarded the Contract, and the human and other resources the Tenderer proposes to use. The Preliminary Project Plan must also address any other topics **specified in the TDS**. In addition, the Preliminary Project Plan should state the Tenderer's assessment of what it expects the Procuring Entity and any other party involved in the implementation of the Information System to provide during implementation and how the Tenderer proposes to coordinate the activities of all involved parties;

b) Written confirmation that the Tenderer accepts responsibility for the successful integration and inter-operability of all components of the Information System as required by the tendering documents;

c) An item-by-item commentary on the Procuring Entity's Technical Requirements, demonstrating the substantial responsiveness of the Information System offered to those requirements. In demonstrating responsiveness, the Tenderer is encouraged to use the Technical Responsiveness Checklist (or Checklist Format) in the Sample Tendering Forms (Section IV). The commentary shall include explicit cross-references to the relevant pages in the supporting materials included in the tender. Whenever a discrepancy arises between the item-by-item commentary and any catalogs, technical specifications, or other preprinted materials submitted with the tender, the item-by-item commentary shall prevail;

d) Support material (e.g., product literature, white papers, narrative descriptions of technologies and/or technical approaches), as required and appropriate; and

e) Any separate and enforceable contract(s) for Recurrent Cost items which the TDS ITT 17.2 required Tenderers to tender.

18.3 Referencestobrandnamesormodelnumbersornationalorproprietarystandardsdesignatedbytheprocuring Entity in the tendering documents are intended to be descriptive and not restrictive. Except where explicitly prohibited in the **TDS** for specific items or standards, the Tenderer may substitute alternative brand /model names or standards in its tender, provided that it demonstrates to the Procuring Entity's satisfaction that the use of the substitute(s) will result in the Information System being able to perform substantially equivalent to or better than that specified in the Technical Requirements.

18.4 For major items of the Information System as listed by the Procuring Entity in Section III, Evaluation and Qualification Criteria, which the Tenderer intends to purchase or subcontract, the Tenderer shall give details of the name and nationality of the proposed subcontractors, including manufacturers, for each of those items. In addition, the Tenderer shall include in its Tender information establishing compliance with the requirements specified by the Procuring Entity for these items. Quoted rates and prices will be deemed to apply to whichever subcontractor is appointed, and no adjustment of the rates and prices will be permitted.

18.5 The Tenderer shall be responsible for ensuring that any subcontractor proposed complies with the requirements of ITT 4, and that any goods or services to be provided by the subcontractor comply with the requirements of ITT 5 and ITT 16.1.

19 Tender Prices

19.1 All Goods and Services identified in the Supply and Installation Cost Sub-Tables in System Inventory Tables in Section VII, and all other Goods and Services proposed by the Tenderer to fulfill the requirements of the Information System, must be priced separately and summarized in the corresponding cost tables in the Sample Tendering Forms (Section IV), in accordance with the instructions provided in the tables and in the manner specified below.

19.2 **Unless otherwise specified in the TDS**, the Tenderer must also tender Recurrent Cost Items specified in the Technical Requirements, Recurrent Cost Sub-Table of the System Inventory Tables in Section VII (if any). These must be priced separately and summarized in the corresponding cost table sin the Sample Tendering Forms (Section IV), in accordance with the instructions provided in the tables and in the manner specified below:

a) **If specified in the TDS,** the Tenderer must also tender separate enforceable contracts for the Recurrent Cost Items not included in the main Contract;

b) prices for Recurrent Costs are all-inclusive of the costs of necessary Goods such as spare parts, software license renewals, labor, etc., needed for the continued and proper operation of the Information System and, if appropriate, of the Tenderer's own allowance for price increases;

c) prices for Recurrent Costs beyond the scope of warranty services to be incurred during the Warranty Period, defined in GCC Clause 29.4 and prices for Recurrent Costs to be incurred during the Post-Warranty Period, defined in SCC Clause 1.1. (e) (xiii), shall be quoted as Service prices on the Recurrent Cost Sub-Table in detail, and on the Recurrent Cost Summary Table in currency totals.

19.3 Unit prices must be quoted at a level of detail appropriate for calculation of any partial deliveries or partial payments under the contract, in accordance with the Implementation Schedule in Section VII), and with GCC and SCC Clause 12 – Terms of Payment. Tenderers may be required to provide a breakdown of any composite or lump-sum items included in the Cost Tables

19.4 The price of items that the Tenderer has left blank in the cost tables provided in the Sample Tender Forms (Section IV) shall be assumed to be included in the price of other items. Items omitted altogether from the cost tables shall be assumed to be omitted from the tender and, provided that the tender is substantially responsive, an adjustment to the tender price will be made during tender evaluation in accordance with ITT 31.3.

19.5 The prices for Goods components of the Information System are to be expressed and shall be defined and governed in accordance with the rules prescribed in the edition of incoterms **specified in the TDS,** as follows:

a) Goods supplied from outside Kenya:
Unless otherwise specified in the TDS, the prices shall be quoted on a CIP (named place of destination) basis, exclusive of all taxes, stamps, duties, levies, and fees imposed in Kenya. The named place of destination and special instructions for the contract of carriage are as specified in the SCC for GCC 1.1(e) (iii)**.** In quoting the price, the Tenderer shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Tenderer may obtain insurance services from any eligible source country;

b) Locally supplied Goods: Unit prices of Goods offered from within Kenya, shall be quoted on an EXW (ex- factory, ex works, ex ware house or off- the-shelf, as applicable) basis, including all customs duties, levies, fees, sales and other taxes incurred until delivery of the Goods, but excluding all VAT or sales and other taxes and duties/fees incurred for the Goods at the time of invoicing or sales transaction, if the Contract is awarded; and

c) Inland transportation.

19.6 Unless otherwise stated in the **TDS,** inland transportation, insurance and related local costs incidental to the delivery of the Goods to the designated Project Sites must be quoted separately as a Service item in accordance with ITT 17.5, whether the Goods are to be supplied locally or from outside Kenya, except when these costs are already included in the price of the Goods, as is, e.g., the case, when ITT 17.5 (a) specifies CIP, and the named places of destination are the Project Sites.

19.7 The price of Services shall be separated into their local and foreign currency components and where appropriate, broken down into unit prices. Prices must include all taxes, duties, levies and fees whatsoever, except only VAT or other indirect taxes, or stamp duties, that may be assessed and/ or apply in Kenyan /to the price of the Services invoiced to the Procuring Entity, if the Contract is awarded.

19.8 Unless otherwise specified in the **TDS**, the prices must include all costs incidental to the performance of the Services, as incurred by the Supplier, such as travel, subsistence, office support, communications, translation, printing of materials, etc. Costs incidental to the delivery of the Services but incurred by the Procuring Entity or its staff, or by third parties, must be included in the price only to the extent such obligations are made explicit in these tendering documents (as, e.g., a requirement for the Tenderer to include the travel and subsistence costs of trainees).

19.9 Unless otherwise specified in the **TDS,** prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to increases on any account. Tenders submitted that are subject to price adjustment will be rejected.

20 Currencies of Tender and Payment

20.1 The currency(ies) of the Tender and currencies of payment shall be the same. The Tenderer shall quote in Kenya shillings the portion of the Tender price that corresponds to expenditures incurred in Kenya currency, unless otherwise specified **in the TDS**.

20.2 The Tenderer may express the Tender price in any currency. If the Tenderer wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than **two foreign currencies** in addition to Kenyan currency.

21 Period of Validity of Tenders

21.1 Tenders shall remain valid for the period specified **in the TDS** after the Tender submission deadline date prescribed by the Procuring Entity in accordance with ITT 23.1. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

21.2 exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 20.1, it shall also be extended for thirty days (30) beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 19.3.

22 Tender Security

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

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

22.3 If a Tender Security is specified pursuant to ITT 20.1, the tender security shall be a demand guarantee in any of the following forms at the Tenderer's option:

a. cash;
b. a bank guarantee;
c. a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
d. a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,
e. any other form specified in the **TDS.**

If an unconditional guarantee is issued by a non-bank financial institution located outside Kenya, the issuing non-bank financial institution shall have a correspondent financial institution located in Kenya to make it enforceable unless the Procuring Entity has agreed in writing, prior to Tender submission, that a correspondent financial institution is not required.

22.4 In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tendering Forms or in another substantially similar format approved by the Procuring Entity prior to Tender submission. I neither case, the form must include the complete name of the Tenderer. The Tender Security shall be valid for thirty days (30) beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 19.2.

22.5 If a Tender Security or a Tender-Securing Declaration is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.

22.6 The Tender Security shall be returned/release as promptly as possible

a) The procurement proceedings are terminated;
b) The procuring entity determines that none of the submitted tenders is responsive;
c) A bidder declines to extend the tender validity.
d) Once the successful Tenderer has signed the Contract and furnished the required Performance Security.

22.7 The Tender Security may be forfeited or the Tender-Securing Declaration executed:

a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender; or
b) if the successful Tenderer fails to**:**

i) sign the Contract in accordance with ITT 47; or

ii) furnish a performance security in accordance with ITT 48.

22.8 Where the Tender-Securing Declaration is executed the Procuring Entity will recommend to the PPRA to debars the Tenderer from participating in public procurement as provided in the law.

22.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the tender. If the JV has not been legally constituted in to a legally enforceable JV at the time of Tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the Form of intent referred to in ITT 4.1 and ITT 11.2.

22.10 A tenderer shall not issue a tender security to guarantee itself.

23 Format and Signing of Tender

23.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 13, shall be clearly marked "ALTERNATIVE". In addition, the Tenderer shall submit copies of the Tender, in the number specified **in the TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

23.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

23.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified **in the TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.

23.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

23.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. <u>SUBMISSION AND OPENING OF TENDERS</u>

24 Submission, Sealing and Marking of Tenders

24.1 The Tenderer shall deliver the Tender in a single, sealed envelope (one (1) envelope process). Within the single envelope the Tenderer shall place the following separate, sealed envelopes:

a) In an envelope marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and

b) In an envelope marked "COPIES", all required copies of the Tender; and,

c) If alternative Tenders are permitted in accordance with ITT 13, and if relevant:

i) In an envelope marked "ORIGINAL–ALTERNATIVETENDER", the alternative Tender; and

ii) in the envelope marked "COPIES – ALTERNATIVE TENDER" all required copies of the alternative Tender.

24.2 The inner envelopes shall:

a) Bear the name and address of the Tenderer;

b) Be addressed to the Procuring Entity/ Employer in accordance with ITT 23.1;

c) Bear the specific identification of this Tendering process specified in accordance with ITT 1.1; and

d) Bear a warning not to open before the time and date for Tender opening.

The outer envelopes shall:

e) Be addressed to the Procuring Entity/ Employer in accordance with ITT 23.1;

f) Bear the specific identification of this Tendering process specified in accordance with ITT 1.1; and bear a warning not to open before the time and date for Tender opening.

24.3 I fall envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

25 Deadline for Submission of Tenders

25.1 Tenders must be received by the Procuring Entity at the address and no later than the date and time indicated **in the TDS**. When so specified **in the TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified **in the TDS**.

25.2 The Procuring Entity may, at its discretion, extend this deadline for submission of Tenders by amending the tendering documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers will thereafter be subject to the deadline as extended.

26 Late Tenders

26.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 23. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

27 Withdrawal, Substitution, and Modification of Tenders

27.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

a) prepared and submitted in accordance with ITT 21 and ITT 22 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and

b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT23.

27.2 Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.

27.3 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tender sand the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

28 Tender Opening

28.1 Except as in the cases specified in ITT 24 and ITT 25.2, the Procuring Entity shall conduct the Tender opening in public, in the presence of Tenderers' designated representatives who chooses to attend, and at the address, date and time specified **in the TDS**. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 23.1, shall be as specified **in the TDS**.

28.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

28.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

28.4 Envelopes marked “Modification” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening. Only Tenders that are opened and read out at Tender opening shall be considered further.

28.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and the Tender Price(s), including any discounts and alternative Tenders, and indicating whether there is a modification; the presence or absence of a Tender Security or Tender-Securing Declaration; and any other details as the Procuring Entity may consider appropriate.

28.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further in the evaluation. The Form of Tender and the Price Schedules are to be initialed by representatives of the Procuring Entity attending Tender opening in the manner specified **in the TDS**.

28.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 24.1).

28.8 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:

a) The name of the Tenderer and whether there is a withdrawal, substitution, or modification;

b) The Tender Price, per lot if applicable, including any discounts;

c) Any alternative Tenders; and

d) The presence or absence of a Tender Security or a Tender-Securing Declaration.

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

E. Evaluation and Comparison of Tenders

29 Confidentiality

29.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until the Notification of Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 42.

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

29.3 Not with standing ITT 27.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

30 Clarification of Tenders

30.1 To assist in the examination, evaluation, and comparison of the Tenders, and qualification of the Tenderers, the Procuring Entity may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the Tenders, in accordance with ITT32.

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

31 Deviations, Reservations, and Omissions

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

a) “Deviation” is a departure from the requirements specified in the tendering document;

b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and

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

32 Determination of Responsiveness

32.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 11.

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

a) If accepted, would:

i) Affect in any substantial way the scope, quality, or performance of the Information System specified in the Contract; or

ii) Limit in any substantial way, in consistent with the tendering document, the Procuring Entity's rights or the Tenderer's obligations under the proposed Contract; or

b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

32.3 The Procuring Entity shall examine the technical aspects of the Tender in particular, to confirm that all requirements of Section V, Procuring Entity's Requirements have been met without any material deviation, reservation, or omission.

32.4 To be considered for Contract award, Tenderers must have submitted Tenders:

a) for which detailed Tender evaluation using the same standards for compliance determination as listed in ITT 29 and ITT 30.3 confirms that the Tenders are commercially and technically responsive, and include the hardware, Software, related equipment, products, Materials, and other Goods and Services components of the Information System in substantially the full required quantities for the entire Information System or, if allowed in the TDS ITT 35.8, the individual Subsystem, lot or slice Tender on; and are deemed by the Procuring Entity as commercially and technically responsive; and

b) that offer Information Technologies that are proven to perform up to the standards promised in the tender by having successfully passed the performance, benchmark, and/or functionality tests the Procuring Entity may require, pursuant to ITT 39.3.

33 Non-material Non-conformities

33.1 Provided that a Tender is substantially responsive, the Procuring Entity may waive any nonconformity in the Tender that does not constitute a material deviation, reservation or omission.

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

33.3 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in the TDS**.

34 Correction of Arithmetical Errors

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

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

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender a rising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail.

35 Conversion to Single Currency

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

36 Margin of Preference and Reservations

36.1 A margin of preference on local contractors may be allowed only when the contract is open to international competitive tendering where foreign contractors are expected to participate in the tendering process and where the contract exceeds the value/ threshold specified in the Regulations.

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

36.3 Contracts procured on basis of international competitive tendering shall not be subject to reservations exclusive to specific groups as provided in ITT 34.4.

36.4 Where it is intended to reserve a contract to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case maybe), and who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates in the **TDS** that only businesses or firms belonging to the specified group are eligible to tender. No tender shall be reserved to more than one group. If not so stated in the Invitation to Tender and in the Tender documents, the invitation to tender will be open to all interested tenderers.

37 Evaluation of Tenders

37.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Best Evaluated Tender.

37.2 To evaluate a Tender, the Procuring Entity shall consider the following:

a) Price adjustment due to discounts offered in accordance with ITT 14.4;

b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 33;

c) price adjustment due to quantifiable non material non-conformities in accordance with ITT 31.3; and

d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

38 Preliminary Examination

38.1 The Procuring Entity will examine the tenders, to determine whether they have been properly signed, whether required sureties have been furnished, whether any computational errors have been made, whether required sure ties have been furnished and are substantially complete (e.g., not missing key parts of the tender or silent on excessively large portions of the Technical Requirements). In the case where a pre-qualification process was undertaken for the Contract (s) for which these tendering documents have been issued, the Procuring Entity will ensure that each tender is from a pre-qualified Tenderer and, in the case of a Joint Venture, that partners and structure of the Joint Venture are unchanged from those in the pre-qualification.

39 Technical Evaluation

39.1 The Procuring Entity will examine the information supplied by the Tenderers Pursuant to ITT 11 and ITT 16, and in response to other requirements in the Tendering document, considering the following factors:

a) Overall completeness and compliance with the Technical Requirements; and deviations from the Technical Requirements;

b) suitability of the Information System offered in relation to the conditions prevailing at the site; and the suitability of the implementation and other services proposed, as described in the Preliminary Project Plan included in the tender;

c) achievement of specified performance criteria by the Information System;

d) compliance with the time schedule called for by the Implementation Schedule and any alternative time schedules offered by Tenderers, as evidenced by a milestone schedule provided in the Preliminary Project Plan included in the tender;

e) type, quantity, quality, and long-term availability of maintenance services and of any critical consumable items necessary for the operation of the Information System;

f) any other relevant technical factors that the Procuring Entity deems necessary or prudent to take into consideration;

g) any proposed deviations in the tender to the contractual and technical provisions stipulated in the tendering documents.

39.2 The Procuring Entity's evaluation of tenders will consider technical factors, in addition to cost factors. The Technical Evaluation will be conducted following the Criteria specified in Section III, Evaluation and Qualification Criteria, which permits a comprehensive assessment of the technical merits of each Tender. All tenders that fail to pass this evaluation will be considered non-responsive and will not be evaluated further.

39.3 Where alternative technical solutions have been allowed in accordance with ITT 13, and offered by the Tenderer, the Procuring Entity will make a similar evaluation of the alternatives. Where alternatives have not been allowed but have been offered, they shall be ignored.

39.4 Where the tender involves multiple lots or contracts, the tenderer will be allowed to tender for one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT 35.2. The methodology to determine the lowest evaluated tenderer or tenderers based one lot (contract) or based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.

40 Financial/ Economic Evaluation

40.1 To evaluate a Tender, the Procuring Entity shall consider the following:

a) price adjustment due to unconditional discounts offered in accordance with ITT 26.8; excluding provisional sums and contingencies, if any, but including Day work items, where priced competitively.

b) Price adjustment due to quantifiable non material non-conformities in accordance with ITT 31.3;

c) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITT 33; and

d) the evaluation factors indicated in Section III, Evaluation and Qualification Criteria.

If price adjustment is allowed in accordance with ITT 17.9, the estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.

40.1 The Procuring Entity will evaluate and compare the Tenders that have been determined to be substantially responsive, pursuant to ITT 35.4. The evaluation will be performed assuming either that:

a) The Contract will be awarded to the Lowest Evaluated Tender for the entire Information System; or

b) if specified **in the TDS**, Contracts will be awarded to the Tenderers for each individual Subsystem, lot, or slice if so defined in the Technical Requirements whose Tenders result in the Lowest Evaluated Tender/ Tenders for the entire System.

In the latter case, discounts that are conditional on the award of more than one Subsystem, lot, or slice may be offered in Tenders. Such discounts will be considered in the evaluation of tenders as specified **in the TDS**.

41 Comparison of Tenders

41.1 The Procuring Entity shall compare all substantially responsive Tenders in accordance with ITT 35.6 to

determine the lowest evaluated cost.

42 Abnormally Low Tenders and Abnormally High Tenders

42.1 An Abnormally Low Tender is one where the Tender price in combination with other constituent elements of the Tender appears unreasonably low to the extent that the Tender price raises material concerns as to the capability of the Tenderer to perform the Contract for the offered Tender Price or that genuine competition between Tenderers is compromised.

42.2 In the event of identification of a potentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the tendering document.

42.3 After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject the Tender.

Abnormally High Tenders

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

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

a. If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.

b. If specifications, scope of work and/ or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

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

43 Unbalanced or Front-Loaded Tenders

43.1 If the Tender that is evaluated as the lowest evaluated cost is, in the Procuring Entity's opinion, seriously unbalanced or front loaded the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the Tender prices with the scope of information systems, installations, proposed methodology, schedule and any other requirements of the tendering document.

43.2 After the evaluation of the information and detailed price analyses presented by the Tenderer, the Procuring Entity may: -

a) Accept the Tender; or

b) If appropriate, require that the total amount of the Performance Security be increased, at the expense of the Tenderer, to a level not exceeding twenty percent (20%) of the Contract Price; or

c) Reject the Tender.

44 Eligibility and Qualification of the Tenderer

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

44.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 15.

44.3 Unless otherwise specified in the **TDS,** the Procuring Entity will NOT carry out tests at the time of post-qualification, to determine that the performance or functionality of the Information System offered meets those stated in the Technical Requirements. However, if so specified in the **TDS** the Procuring Entity may carry out such tests as detailed in the **TDS**.

44.4 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the next lowest evaluated cost or best evaluated Tender, as the case may be, to make a similar determination of that Tenderer's qualifications to perform satisfactorily.

44.5 The capabilities of the manufacturers and subcontractors proposed by the Tenderer that is determined to have offered the Best Evaluated Tender for identified major items of supply or services will also be evaluated for acceptability in accordance with Section III, Evaluation and Qualification Criteria. Their participation should be confirmed with a Form of intent between the parties, as needed. Should a manufacturer or subcontractor be determined to be unacceptable, the Tender will not be rejected, but the Tenderer will be required to substitute an acceptable manufacturer or subcontractor without any change to the Tender price. Prior to signing the Contract, the corresponding Appendix to the Contract Agreement shall be completed, listing the approved manufacturers or subcontractors for each item concerned.

44.6 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in *"SECTIONIII- EVALUATION AND QUALIFICATION CRITERIA.*

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

45.1 The Procuring Entity reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to contract award, without there by incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. AWARD OF CONTRACT

46 Award Criteria

46.1 Subject to ITT 40, the Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest/ best Evaluated Tender. The determination of the lowest/ Best Evaluated Tender will be made in accordance to one of the two options as defined in the **TDS**. The methodology options are:

The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender

a) When **rated criteria are used**: The Tenderer that meets the qualification criteria and whose Tender:
   i) Is substantially responsive; and
   ii) Is the Best Evaluated Tender (i.e. the Tender with the highest combined technical/ quality/ price score); or

b) When **rated criteria are not used**: The Tenderer that meets the qualification criteria and whose Tender has been determined to be:
   i) Most responsive to the tendering document; and
   ii) The lowest evaluated cost.

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

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

48 Notice of Intention to enter into a Contract/ Notification of award

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

a) The name and address of the Tenderer submitting the successful tender;
b) The Contract price of the successful tender;
c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
d) the expiry date of the Standstill Period; and
e) instructions on how to request a debriefing and/ or submit a complaint during the standstill period;

49 Standstill Period

49.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

49.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter in to a Contract with the successful Tenderer.

50 Debriefing by the Procuring Entity

50.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.

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

51 Letter of Award

51.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT44.1, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

52 Signing of Contract

52.1 Upon the expiry of the fourteen days of the Notification of Intention to enter in to contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

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

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

52.4 Notwithstanding ITT 47.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Procuring Entity, to Kenya, or to the use of the Information System to be supplied, where such export restrictions arise from trade regulations from a country supplying those Information System, the Tenderer shall not be bound by its Tender, provided that the Tenderer can demonstrate that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Tenderer in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the Information System under the terms of the Contract.

53 Performance Security

53.1 Within twenty-one (21) days of the receipt of the Form of Acceptance from the Procuring Entity, the successful Tenderer shall furnish the performance security in accordance with the General Conditions,

subject to ITT38.2 (b), using for that purpose the Performance Security Form included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a Performance Security shall have a correspondent financial institution located in Kenya.

53.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

49 Publication of Procurement Contract

Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

a) Name and address of the Procuring Entity;
b) Name and reference number of the contract being awarded, a summary of its scope and the selection method used;
c) The name of the successful Tenderer, the final total contract price, the contract duration.
d) Dates of signature, commencement and completion of contract;
e) Names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

50. Adjudicator

50.1 Unless **the TDS** states otherwise, the Procuring Entity proposes that the person named **in the TDS** be appointed as Adjudicator under the Contract to assume the role of informal Contract dispute mediator, as described in GCC Clause 43.1. In this case, a résumé of the named person is attached to the TDS. The proposed hourly fee for the Adjudicator is specified in the TDS. The expenses that would be considered reimbursable to the Adjudicator are also specified **in the TDS**. If a Tenderer does not accept the Adjudicator proposed by the Procuring Entity, it should state its non-acceptance in its Tender Form and make a counter proposal of an Adjudicator and an hourly fee, attaching résumé of the alternative. If the successful Tenderer and the Adjudicator nominated **in the TDS** happen to be from the same country, and this is not Kenya too, the Procuring Entity reserves the right to cancel the Adjudicator nominated **in the TDS** and propose a new one. If by the day the Contract is signed, the Procuring Entity and the successful Tenderer have not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed, at the request of either party, by the Appointing Authority specified in the SCC clause relating to GCC Clause 43.1.4, or if no Appointing Authority is specified there, the Contract will be implemented without an Adjudicator.

51. Procurement Related Complaints and Administrative Review

51.1The procedures for making a Procurement-related Complaint are as specified in the **TDS.**

51.2A request for administrative review shall be made in the form provided under contract forms.

SECTION II - TENDER DATA SHEET (TDS)

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

[Where an e-procurement system is used, modify the relevant parts of the TDS accordingly to reflect the e-procurement process].

[Instructions for completing the Tender Data Sheet are provided, as needed, in the notes in italics mentioned for the relevant ITT].

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1.1	The reference number of the Request for Tenders is: **IEBC/OIT/01/2026 - 2027** The Procuring Entity is: **Independent Electoral and Boundaries Commission (IEBC)** The name of the ITT is: **Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the Integrated Elections Management System (IEMS), Hardware Equipment and Accessories**
ITT 2.3 (a)	**Electronic – Procurement System** The Procuring Entity shall use the following electronic-procurement system to manage this procurement process:www.iebc.or.ke or from the Public Procurement Information Portal www.tenders.go.ke. The electronic-procurement system shall be used to manage the following aspects of the Procurement process: Downloading the tender documents from the IEBC website and Virtual Pre-bid meeting (a link will be shared by interested tenders who will send their email addreses through procurement@iebc.or.ke before the pre-bid conference date)
ITT 3.3	The firms (if any) that provided consulting services for the contract being tendered for are N/A
ITT 4.1	Maximum number of members in the JV shall be: ***N/A*** _____
ITT 4.9	The Procuring Entity may require tenderers to be registered with N/A_____
	B. Tendering Document
ITT 8.1	For **Clarification of Tender purposes** only, the Procuring Entity's address is: **The Chief Executive Officer/Commission Secretary Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, University Way, Fifth Floor Nairobi.** Electronic mail address: procurement@iebc.or.ke Requests for clarification should be received by the Procuring Entity no later than: than seven (7) days to tender closing/opening date.
ITT 8.2	Web page: www.tenders.go.ke. _____
ITT 8.4	A Pre-Bidding meeting **shall** take place at the following date, time and place: Date: 18th August, 2026 Time: 7.00 a.m GMT (10.00 a.m EAT) Place: virtual through a link that will be shared with interested tenderers who will send their email through procurement@iebc.or.ke before the said date A site visit conducted by the Procuring Entity **shall not be** organized.
ITT 9.1	The Procuring Entity shall publish its response at the website: www.iebc.or.ke
	C. Preparation of Tenders
ITT 13.1 (k)	The Tenderer shall submit with its Tender the following additional documents:N/A

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 15.1	Alternative Tenders are not permitted.
ITT 15.2	Alternatives to the Time Schedule NOT permitted.
ITT 15.4	Alternative technical solutions shall be permitted for the following parts of the Information System: NOT APPLICABLE as further detailed in the Specification.
ITT 17.2	Prequalification **has not** been undertaken.
ITT 18.2 (a)	In addition to the topics described in ITT Clause 16.2 (a), the Preliminary Project Plan must address the following topics: (i) Project Organization and Management Sub-Plan, including management authorities, responsibilities, and contacts, as well as task, time and resource-bound schedules (in GANTT format); (ii) Implementation Sub-Plan; (iii) Training Sub-Plan; (iv) Testing and Quality Assurance Sub-Plan; (v) Warranty Defect Repair and Technical Support Service Sub-Plan (vi) Detailed system designs, architecture drawings, workflows, catalogues (vii) Training and knowledge transfer to Commission staff including manuals (viii) System testing and independent certification with timelines (ix) Detailed plan for handover of hardware firmware, drivers, Operating System keys and SDKs. (x) Any other as may be appropriate
ITT 18.3	In the interest of effective integration, cost-effective technical support, and reduced re-training and staffing costs, Tenderers are required to offer specific brand names and models for the following limited number of specific items:None
ITT 19.2	The Tenderer **must** tender Recurrent Cost Items
ITT 19.2 (a)	The Tenderer **must** tender for contracts of Recurrent Cost Items not included in the main Contract.
ITT 19.5	The Incoterms edition is: **2020 DPP**
ITT 19.5 (a)	Named place of destination is: *IEBC* **National Warehouse Industrial Area Likoni Road, Nairobi**
ITT 19.6	Named place of final destination (or Project site) is: **National Warehouse Industrial Area Likoni Road, Nairobi** _____
ITT 19.8	ITT 17.8 is modified as follows: **no modification to ITT 17.8**
ITT 19.9	The prices quoted by the Tenderer **shall not** be subject to adjustment during the performance of the Contract.
	The Tender price shall be adjusted by the following factor(s): **NOT APPLICABLE** ***For Local currency:*** **NOT APPLICABLE** ***For Foreign Currency:*** **NOT APPLICABLE**
ITT 20.1	The Tenderer **is** required to quote in the currency of Kenya the portion of the Tender price that corresponds to expenditures incurred in that currency.
ITT 21.1	The Tender validity period shall be **Two Hundred and Forty Days (240)** days.
ITT 22.1	A *Tender Security* **shall be** required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be **Kenya Shillings Thirty Million (Kshs. 30,000,000)**
ITT 22.3 (v)	Other types of acceptable securities are **NOT APPLICABLE**
ITT 23.1	In addition to the original of the Tender, the number of copies is: **One__**
ITT 23.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: **Power of Attorney**
D. Submission and Opening of Tenders	

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 25.1	For **Tender submission purposes** only, the Procuring Entity's address is: Attention: The Chief Executive Officer/Commission Secretary Street Address: Anniversary Towers Floor/Room number: 5 *th Floor* City: Nairobi ZIP Code: 00100 Country: Kenya **The deadline for Tender submission is:** Date: 1st September,2026 Time: **10:00 a.m East African Time** Street Address: University Way Floor/ Room number: 5th Floor City: Nairobi Country: Kenya **Tender Opening Date is** Date: 1st September, 2026 Time: **10:00 a.m East African Time**
ITT 25.1	Tenderers **shall not** have the option of submitting their Tenders electronically. The Electronic Tendering submission procedures shall be: **NOT APPLICABLE**
ITT 28.1	The Tender opening shall take place at: IEBC Anniversary Towers Street Address: University Way Floor/Room number: 5th Floor City: Nairobi Country: Kenya Date: 1st September, 2026 Time: **10:00 a.m East African Time**
ITT 28.1	The electronic Tender opening procedures shall be: **NOT APPLICABLE**
ITT 28.6	The Form of Tender and Price Schedules shall be initialed by Three (3) representatives of the Procuring Entity conducting Tender opening.
E. Evaluation, and Comparison of Tenders	
ITT 33.3	The adjustment shall be based on the average price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate. If the missing Goods and Services are a scored technical feature, the relevant score will be set at zero.
ITT 35.1	The currency(ies) of the Tender shall be converted into a single currency as follow**s: Kenya Shillings** The currency that shall be used for Tender evaluation and comparison purposes to convert all Tender prices expressed in various currencies into a single currency is: **Kenya Shillings** The source of exchange rate shall be: Central Bank of Kenya The date for the exchange rate shall be: **on the Date of Tender Opening**.
ITT 36.2	Margin of Preference **shall not apply.**
ITT 36.4	The invitation to tender is extended to the following group that qualify for Reservations: **NOT APPLICABLE**
ITT 40.2 (b)	Tenderers shall be **not allowed** to quote separate prices for different lots (contracts for Subsystems, lots, or slices of the overall Information System) and the methodology to

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	determine the lowest tenderer is specified in Section III, Evaluation and Qualification Criteria.
ITT 44.3	***Add the following if the Procuring Entity will carry out tests at the time of post-qualification, to determine that the performance or functionality of the Information System offered meets those stated in the Technical Requirements*** As additional qualification measures, the Information System (or components/parts of it) offered by the Tenderer with the Best Evaluated Tender may be subjected to the following tests and performance benchmarks prior to Contract award*:* 1. Conformity to Specifications 2. Comply with the eligibility criteria 3. Confirmation of information during due diligence by the evaluation committee.
ITT 46.1	The award will be made on the basis of the successful tenderer whose tender has been determined to be the Lowest/ best Evaluated Tender**.** in accordance with Section III, Evaluation and Qualification Criteria.
ITT 47.1	The maximum percentage by which quantities may be increased is: ***15%*** The maximum percentage by which quantities may be decreased is: ***15%*** **The items for which the Procuring Entity may increase of decrease the quantities are the following: Hardware Equipment and Accessories**
ITT 50.1	The proposed Adjudicator is: The proposed Adjudicator is: as shall be agreed on by both parties. The proposed hourly fee is as per official government scale or as agreed with the adjudicator.
ITT 51.1	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA website info@ppra.go.ke or complaints@ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to: **Director General** **Public Procurement Regulatory Authority KISM Towers, 6th Floor, Ngong Road** **P.O Box 58535- 00200, Nairobi Kenya** **Telephone: +254 020 3244000, 2213106/7** **Email: info@ppra.go.ke** In summary, a Procurement-related Complaint may challenge any of the following: 1. the terms of the Tendering Documents; and 2. the Procuring Entity's decision to award the contract.

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provision

1.1 Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:

a) For construction turnover or financial data required for each year- Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year are to be converted) was originally established.

b) Value of single contract- Exchange rate prevailing on the date of the contract signature.

c) Exchange rates shall be taken from the publicly available source identified in the ITT. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

1.2 This Section contains all the criteria that the Procuring Entity shall use to evaluate Tenders and qualify Tenderers. No other factors, methods or criteria shall be used. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity should use **the Standard Tender Evaluation Report for Goods and Works** for evaluating Tenders.

1.3 Multiple Contracts; multiple contracts will be permitted in accordance with ITT35.6. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.

ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest the tenderers.

OPTION 2

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

2 Evaluation and contract award Criteria

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

3 Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered non- responsive and will not be considered further.

A)Preliminary Eligibility Evaluation				
Item No.	Qualification Subject	Qualification Requirement to be met	Document/Item To be Completed/submitted by Tenderer	***For Procuring Entity's Use*** (Qualification met or Not Met)
1.	The Tenderer	The tenderer MUST submit a	Sample	

	shall demonstrate capacity to deliver	sample system demo, branded with manufacturer's name and identical to the one described in the technical proposal and it shall be the one to be used during the demonstration and delivered by the bidder upon award	System Demo	
2.	The Tenderer shall have legal capacity to enter into a procurement contract	(a) Copy of the certificate of incorporation, business registration or equivalent for foreign tenderers, and (b) Power of Attorney	Attached documents	
3.	Tax Obligations for Tenderers	Must Submit a copy of a current tax clearance certificate or tax exemption certificate	1. Form of Tender 2. Certified copy of tax compliance/exemption certificate or equivalent	
4.	The Tenderer shall submit a tender security in the amount, form and period specified in ITT 18.1	Tender Security	Form 13A – Form of Tender Security The tender security to be provided will be Kenya Shillings Thirty Million (KES. 30,000,000) or in another freely convertible currency valid for 270 days from the date of opening the tender and shall be in any of the following forms only; - a) A bank guarantee; b) A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or A guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya or abroad	
5.	The Tenderer shall not be insolvent, in receivership, bankrupt, or in the process of being wound up.	Audited Accounts for the years 2023,2024 and 2025. An Auditor's certificate indicating company's unqualified report must be attached.	Certified copy of Audited Accounts in accordance to International Financial Reporting Standards (IFRS)	
6.	The Procuring Entity is not precluded from entering into a	Form 1: Form of Tender, and Form 4A: SD1 - Declaration that one is Not Debarred	Form 1: Form of Tender, and Form 4A: SD1 -	

	contract with the Tenderer.		Declaration that one is Not Debarred	
7.	The Tenderer and their subcontractors, if any, is not debarred from participating in procurement proceedings under Part XI of the Public Procurement and Asset Disposal Act.	Form 1: Form of Tender, and Form 4A: SD1 - Declaration that one is not Debarred	Form 1: Form of Tender, and Form 4A: SD1 - Declaration that one is not Debarred	
8.	The Tenderer has not been convicted of corrupt or fraudulent practices	Form 1: Form of Tender Form 4B: SD2-Declaration on Corruption and Fraudulent Practice, Form 5: Declaration of Commitment to the Code of Ethics, and, Form 6: Appendix on Fraud and Corruption	Form 1: Form of Tender Form 4B: SD2-Declaration on Corruption and Fraudulent Practice, Form 5: Declaration of Commitment to the Code of Ethics, and, Form 6: Appendix on Fraud and Corruption	
9.	Commitment that the Tenderer shall meet all the eligibility requirements in the tender document.	Form 1: Form of Tender, and Form 2: Tenderer's Eligibility-Confidential Business Questionnaire	Duly filled Form 1 and Form 2	
10.	The Tenderer shall have no conflict of interest in the subject tender.	Form 1: Form of Tender, and Form 2: Tenderer's Eligibility-Confidential Business Questionnaire	Duly filled Form 1 and Form 2	
11.	Compliance with attaining 40% local content plan	Form 8: Foreign Tenderers 40% rule.	Duly Filled Form 8 All tenderers include in their tenders a local content plan for the transfer of technology. The local content plan shall include— (a) positions reserved for employment of local citizens; (b) capacity building and competence development programme for local citizens; (c) Timefram	

			es within which to provide employment opportunities; (d) demonstrable efforts for accelerated capacity building of Kenyan citizens; (e) succession planning and management; (f) A plan demonstrating linkages with local industries which ensures at least forty percent (40%) inputs are sourced from locally manufactured articles, materials and supplies partially mined or produced in Kenya, or where applicable have been assembled in Kenya.	
12.	Pagination/ serialization	To safeguard tender documents from mutilation and manipulation	Tender document MUST be sequentially Paginated/ serialized on each page including all the attachments	
13.	Price Quotation	To provide contractual Pricing offer for the goods and services to be rendered.	Must submit a Dully Filled, signed and stamped Price Schedule in the format provided.	

4 Assessment of adequacy of Tender's Proposal in connection with Procuring Entity's IT Requirements.

TECHNICAL EVALUATION

The Criteria, sub-criteria, and point system for the evaluation of the Tenders Proposal on meeting the Procuring Entity's Requirements: *[Note to Procuring Entity: Allocation of points shall be within the range provided for each criteria and sub-criteria]*

Points

i) Specific experience of the Tenderer, as a firm, relevant to the provision of IT systems: *[0-5]*

ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Procuring Entity's Requirements:

a) Technical approach and methodology *[Insert points]*

b) Work plan *[Insert points]*

c) Organization and staffing *[Insert points]*

Total points for criterion (2): *[10-20]*

[Notes to Consultant: The Procuring Entity will assess whether the proposed methodology is clear, responds to the TORs, work plan is realistic and implementable; overall team composition is balanced and has an appropriate skill mix; and the work plan has right input of Experts]

iii) Conformity to Technical Specifications

(Note: Sub criteria should preferably be based on the items listed under Technical Requirements of Part2– Procuring entity's requirements- Section VII- Requirements of the Information System).

a) Functional, Architectural and Performance Requirements, including suitability of the Information System offered. *[Insert points]*

b) Service Specifications – Supply & Install Items, including achievement of specified performance criteria by the Information System. [*Insert points]*

c) Technology Specifications–Supply & Install Items. *[Insert points]*

d) Testing and Quality Assurance Requirements. *[Insert points]*

e) Service Specifications– Recurrent Cost Items. *[Insert points]*

f) Implementation Schedule. *[Insert points]*

g) System Inventory. *[Insert points]*

Total points for criterion (3*[40-50]*

iv) Requirements of the Supplier's Technical Team for the IT Contract**:**

(Notes: See list in Part 2 of the Tender Document)

a) PositionK-1: [Team Leader] [Insert points]

b) PositionK-2: [Insert position title] [Insert points]

c) PositionK-3: [Insert position title] [Insert points]

d) PositionK-3: [Insert position title] [Insert points]

e) PositionK-3: [Insert position title] [Insert points]

f) ETC.

Total points for criterion (4): *[20-30]*

The number of points to be assigned to each of the above Key Experts positions shall be determined considering the following three sub-criteria and relevant percentage weights:

a) General qualifications (general education, training, and experience): *[insert weight between 10 and 30%]*

b) Adequacy for the Contract (relevant education, training, experience in the sector or similar assignments)*: [insert weight between 60 and 70%]*

c) Relevant experience in the Kenya (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): *[insert weight between 0 and 10%]*

Total weight: 100%

v) **Transfer of knowledge and training program** (relevance of approach and methodology):

[Normally not to exceed 5 points. When transfer of knowledge is a particularly important component of the assignment, more than 10 points may be allocated; the following sub-criteria may be provided]

a) Relevance of training program [Insert points]

b) Training approach and methodology [Insert points]

c) Qualifications of experts and trainers [Insert points]

Total points for criterion (5): *[0 – 5]*

vi) **Participation by Kenya citizens among proposed Key Experts** *[0–5]*

[not to exceed 5 points] [Sub-criteria shall not be provided. Calculated as a ratio of the Kenyan Key Experts' time-input (in person-months) to the total number of Key Experts' time-input (in person-months) in the Tender's Technical Proposal]

Total points for the five criteria*:* 100 The minimum technical

score (St) required to pass is*: points [Insert number]*

[Notes to Procuring Entity: the indicative range for the minimum technical score required to pass is 70 to 85 on a scale of 1 to 100]

B) Hardware and Accessories - Technical Evaluation

S/No	Evaluation Criteria		Max Score
	Item Description	Evidence	Compliance (Y/N)
1.	Biometric device	Bidder MUST Provide Brochure clearly showing that the device has the following features:	
		Minimum 10" touchscreen;	
		Fingerprint optical sensor, FBI PIV IQS, or STQC certified to provide at least 2 fingers scanner; or FBI FAP 50/FAP 60 standard	
		Minimum 8GB memory, 256GB internal storage, and 2.4GHz processor	
		Minimum13-megapixel camera with dual LED, 1D/2D barcode and MRZ reading capability;	
		Contact smart card reader;	
		Near field Communication (NFC) capability;	
		Embedded RFID transmitter;	
		Contactless smart card reader;	
		Scanning capability: Scanner with MRZ reading capability should be able to scan A4 size paper, ID Cards or Passports. The scanner should have auto alignment and double feed detection functionality. Upon scanning the device should generate encrypted PDF file	
		Signature capture capability;	
		Embedded security features;	
		3G/4G/5G, Dual micro-SIM cards, Wi-Fi and Bluetooth.	
		Iris capture capability	
		Geo-fencing capability with GNSS (Global Navigation Satellite Support) of GPS and at least two other systems	
		Support for E-Sim functionality	
2.	Rubber case protection	The bidder MUST provide Brochure to show that the case has rubber protection against damage during bumps and drops while being easily handled by users	

1.	Power Banks	The bidder MUST provide a brochure showing features of the power banks as follows : An external 20,000 mAh/65.0Wh Power Bank, with at least double the capacity of the device's battery. The power bank should have an attached flexible connector cable. DC Input: 5.0V----2.1A DC Output 5.0V ---2.1A	
2.	Adapter Chargers	The bidder MUST provide a brochure for the adapter chargers with features as follows: Charger with Kenyan plug and Micro USB cable usable for Device and external battery.	
3.	Safe and light Packaging	The bidder MUST provide a brochure showing with the following: The proposed packaging should have a defined space for each of the kit components, which includes the biometric device, the necessary charger, cable and external battery and any other accessories. The packaging to carry the devices to be padded	
4.	Tamper Evident Security Seals (Self – Adhesive)	The bidder MUST provide a brochure showing tamper evident security seals with the following features: Self-adhesive security seal 100x20 mm red Polyester Material with 0.045 mm thickness	

SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, SUPPORT AND MAINTENANCE OF THE IEMS SOFTWARE - Technical Evaluation

S/No	**Evaluation Criteria**		**Bidder Response**	**Compliance (Y/N)**
	Item Description	**Evidence**		
THE BIOMETRIC VOTER REGISTRATION MODULE				
1.	**A. Voter Registration (Front–End Client)**	Bidder MUST submit a Proposal containing sufficient technical design information in all the following requirements		
		Bidder MUST Provide Technical design document or Methodology showing the capacity of Voter Registration (Front – End Client) to manage the following: Ability to capture the following voter particulars: i. First Name ii. Middle Name		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		iii. Surname/Family Name iv. Date of Birth (DD/MM/YYYY) v. Gender (male, female or intersex) vi. Type of Identity Document – National ID (the Second Generation ID or Maisha cards) or Passport Identity Document Number vii. Expiry Date viii. Fingerprint image (maximum of ten) ix. Facial Image capture x. Iris capture xi. Level of Education (None, Primary, Secondary, Graduate, Post Graduate) xii. Unique Elector's Number (System Generated at registration) xiii. Name of County, Constituency, County Assembly Ward, Registration Centre xiv. Date of Registration (system generated). xv. Time stamp (system generated) xvi. Mobile phone number (country specific) xvii. E-mail address xviii. Type of Physical Challenge/Special needs (none, blind, deaf, physical, other) xix. The system should have Yes/No button displaying the text "will you require assistance from anyone during voting" and "If yes specify the nature of assistance" xx. Scanned image of the ID/Passport (Compressed format) xxi. Applicants Signature xxii. Special Notes		
		Must integrate with an MRZ identification code capture system and must be capable of reading the national ID card MRZ code (the Second Generation ID, Maisha cards and Passport).		
		The Voter registration system (front-end) should have the capability to transmit encrypted registration data to a central server and provide logs and reports for the transmitted data.		
		The registration system should be able to store the captured data on the kit or portable device		
		Provide role-based access control for the client application. The system should ensure data entry validation such as: i. Validate and capture best quality of fingerprints as per international standards- ii. Minutiae Points (International Identification Standard) iii. Major Fingerprint Pattern Types		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		iv. Fingerprint Recording Standard (10-Print System) v. Interpol / ISO Digital Fingerprint Standards vi. Should have an In-kit ABIS for validation of enrolments to minimize multiple registrations. vii. Flexibility to reconfigure False Acceptance Rate and False Rejection Rate due to poor quality fingerprints(Fingerprint and Iris) viii. The system should validate and capture the best quality passport size photo as per international standard. Poor quality images should be rejected. ix. Alpha fields such as name fields should reject numeric inputs. x. ID Number field should reject alphabets and/or special characters in accordance with the Kenyan National Identification Card Format xi. The passport field should only accept specific data format in accordance with the Kenyan passport format. xii. The date of birth field should not allow under age (below 18 years) xiii. The following mandatory input fields should not be blank: First name, surname, facial image, all fingerprints, iris image, date of birth, registration document number, gender, county, constituency, county assembly ward, Registration Centres, date of registration and time stamp.		
		Ability to bypass requirements to capture 10 fingerprints for persons with less than 10 fingers		
		The system dashboard for all functions of the application should be uniform including screen navigation and screen selection features.		
		The user interface should be user friendly, interactive and have an on-screen context-sensitive help functionality		
		The system must generate unique elector's number and provide in-kit biometric matching to minimize duplication at source		
		Access to the system should be controlled by passwords and/or biometrics.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		Passwords should be uniquely assigned and usernames		
		Provide a password management capability for administration		
		Comprehensive auditing and audit trail features including facility to monitor system usage with an export functionality.		
		Full back-up, recovery and restore facility within the package to enable complete file restore and recovery through Continuous backup during registration on the device and Registration data export functionality to an external media		
		Facility for output/reports should be capable of being directed to a printer, screen or file.		
		The system should be able to generate the following report from the front end client application: i. Detailed report of registered voters by date (Name, ID number, Registration centre) ii. Voter registration statistics report per registration centre.		
		The system should be able to securely store captured records on the system and on an external media.		
		The captured voter registration records should be transmitted and uploaded to the central database securely in real time whenever there is network connectivity		
		The voter registration application shall be (optionally configurable) to provide functionality for validation of the registration records against physical forms by the registration officer.		
		Ability to warn users of violation of set legislative or electoral requirements i.e. age must be 18 and above, attempts for double registration must be rejected.		
		Where the document used to register as a voter is a passport, the software must automatically check for the validity date of the document as read from MRZ.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		The system shall allow users to display on the local device details of individual voter registration/enrolment records by selecting from any on-screen summary listing of voter records.		
		Ability to export data in different formats e.g. ASCII (both delimited and fixed- width) file that will contain all active, inactive or cancelled applications, or any combinations thereof that are subject to disclosure under Kenya public records laws.		
		Provide ability to update electoral mapping of counties, constituencies, wards, and registration centres.		
		The systems should have the ability to allow updates of bio-graphic and biometric data. The user should be enabled to edit applicants text records on a form based input screen on the device. This must be authenticated through the applicant's biometrics fingerprints to unlock the applicant's record.		
		The system should provide a user interface for effecting voter transfer to another registration centre. It should enable the voter to authorize the transfer using fingerprint. The system should not allow the registration officer to transfer voters outside his/her designated constituency. This should work both in online and offline modes.		
		The system should update the alphanumeric database of voters on the KIEMS SD card, when connected to the network.		
		The Registration Officer should be able to view or generate reports on transfers in and out of his/her constituency for tracking voter movements and changes of the register of voters over time.		
		The System should display kit serial number to enable detection and tracing of any photo taken of the screen		
		The successful KIEMS vendor shall design, develop, implement, integrate, and support an Online Voter Pre-Registration System (VPRS). The VPRS shall seamlessly integrate with the KIEMS		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		Biometric Voter Registration module on the front end and the Integrated Population Registration System (IPRS) to facilitate secure online voter pre-registration, improve data accuracy, reduce registration time, and enhance the overall voter registration process. The VPRS shall, at a minimum: i. Provide a secure, user-friendly, and responsive online voter pre-registration portal. ii. Integrate securely with the voter database, Integrated Population Registration System (IPRS) for voter identity verification and retrieval of biographical data. iii. Seamlessly integrate with KIEMS device,Voter Registration Software using secure QR Code and/or API-based data exchange. iv. Implement robust security controls, including encryption, role-based access control, audit trails, and compliance with the Kenya Data Protection Act and ISO/IEC 27001:2022. v. Support high availability, scalability, and performance for nationwide voter registration. vi. Provide a secure administrative dashboard with monitoring, reporting, and audit capabilities. vii. Include comprehensive testing, documentation, and training for IEBC technical and business users. iii. Transfer all source code, documentation, and intellectual property rights to the Commission upon project completion.. ix. Ensure full interoperability with existing IEBC systems and future KIEMS enhancements. x. Implement a QR code scanning function to import encrypted biographic data into the registration functionality. xi. Automatically populate biographic fields from the QR data. xii. Proceed with biometric capture once the data is loaded. iii. Implement a QR code scanning function to import encrypted biographic data into the registration functionality. iv. Automatically populate biographic fields from the QR data. xv. Proceed with biometric capture once the data is loaded		
Voter Registration Central system (back-end)				
	2. Functional requirements for Biometric	Bidder MUST Provide Technical design document or Methodology showing the capacity of Voter registration central system (back-end) is able to manage the following.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
	central system	The registration data sent from the devices at registration centres shall be received in a staging server where validation control measures are applied.		
		The staging server shall ensure the validation of the data encryptions and digital certificate for all enrolment records.		
		The central system should have functionality for generating a unique digital certificate for each registration kit deployed. This digital certificate shall authenticate each registration record received at the back end.		
		The system should allow secure remote access to the BVR application servers.		
		The system should have monitoring services for all processes, logs, disk space, memory usage among others.		
		The system should be able to integrate with a business intelligence reporting solution for generation of customized reports for registration officers and system administrators. These reports include but are not limited to: number of enrolments submitted to the staging server, rejected enrolments, list of transfers effected, register of voters, voter status, gender statistics, age, disability and any other report that may be prescribed by the Commission. The reports should be user-defined through SQL queries, etc.		
		The system should have a back-end functionality for registration officers to update voter particulars and applicant's/voter's status. The status shall include active, deceased and deleted etc. The functionalities should be assigned to registration officers when necessary.		
		Transmission of enrolment requests and logs from the kits to the Central system shall be done both online and offline in a secure manner.		
		The central system should have an interface to allow the Commission to define the maximum number of voters per polling station (currently capped at 700 voters) and evenly distribute voters in all polling stations.		
		The system should provide the Commission with the capability to define the sorting criteria and arrangement of voters names per polling station (streaming of voters) during generation of register of voters.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		The vendor may preferably utilize the existing ABIS platform and tools for easier system migration to ensure compatibility with the existing biometric infrastructure, facilitate seamless data transition and enable faster implementation timelines.		
		The system shall enforce gazetted cut-off dates for voter registration and prevent any registration, transfer, or update transactions within the affected electoral area once the statutory deadline has lapsed		
		The ABIS should be able to allow for the performance of matching and quality controls on enrolments in order to de-duplicate the requests or detect exceptions below		
		The Quality controls should consist of but not limited to the following: **(a)Image Quality Control** The system should make sure that the portrait images captured meet the minimum set international standards. For exceptional cases of records with poor images, the system should isolate and allow operator decisions to be made.		
		(b) Alphanumeric data Verification The system should allow for the verification of captured records by an operator at the central site for suspected fraud during registration. Like where an applicant comes to register multiple times using the same or even different documents or where different people are registering using the same document.		
		(c)Fingerprint Investigation The system should allow for fingerprint investigation for cases where ABIS suspects multiple registrations. In such cases the central site fingerprint operator should have the rights to make a final decision on such an application.		
		(d) Alphanumeric investigation The system should be able to flag out and allow for alphanumeric investigations on those cases of similar registration document details, shared ID/Passport numbers or sequential ID/Passport numbers from the same kit. A central site operator will be able to work on such cases and make a final decision.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		(e) Update and Validations of records The system should allow for the update/amendment of a voter's record when needed. The system should have an interface for the registration officer (RO) to amend and validate records in his/her constituency. The Registration officer should be notified through the system of any voters who have transferred from his/her constituency.		
		(f) Extraction of data from the database in various formats. – The system should have tools that allows the Commission extract data from the system in various formats including the CSV by authorized technical personnel		
		(g) Extraction of the Electoral Area mapping – The system should allow for update of the electoral mapping (Counties, Constituencies, County Assembly Wards and registration/polling Centre's) on the central system. The system should be able to update the electoral mapping on the registration kit automatically when the data is updated on the central system.		
		(h) Generation of various lists/register of voters- The system should allow for the generation of different registers including the preliminary as well as the final register of voters for any given electoral area in a user friendly manner. The system should have an interface and tools for the registration officers to generate their own register at the constituency/ward/polling station level. The system should have an interface for preparation and generation of the final register of voters at the national level. The registration officer should be able to generate reports of voters who have transferred into and out of his/her constituency with date and time stamps.		
		(i) Data generation Export - The system should allow export of data both alphanumeric and biometric for voter identification and verification. The bidder shall provide procedure manuals and training to the Commission technical staff on how to extract the biometrics and alphanumeric data of voters on either SD cards or any other solution for purposes of voter identification.		
		(j) QR and Bar Codes generation – The system should provide tools for generating QR/Bar codes.		
	3. Functional requirements for the Automatic Biometric	The vendor shall propose the central biometric matching solution for a minimum of **thirty (30) million records** for identification and de-duplication of the registered voters.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
	Identification System (ABIS)	The vendor must provide an operational plan and procedures that provides a clear workflow of how data would be processed from the registration centre to the central matching servers for the generation of the register of voters.		
		The solution must provide the following features: i. Optimized matching algorithms clearly explained in the proposal ii. A graphical user interface for management of the register of voters. iii. Automated processing of data after upload from the registration kits.		
		The proposal must include an express guarantee that at all times during the biometric matching process, all the voter registration records shall remain the property of the Commission and must adhere to the prescribed confidentiality in the Kenyan data protection laws.		
		The Proposal MUST contain an undertaking that no part of the voter registration records may be used for any other purpose (such as research, analysis, sale etc. to third parties) other than for the direct use by the Commission for purposes of conduct of elections. The Commission reserves the right to terminate any engagement by the vendor should this provision be breached by the vendor.		
	4.Standards and requirements for the Central Biometric matching module	(a) **Digital Fingerprint Image Standards** All new fingerprint imaging components provided with the ABIS shall capture and digitize distortion-free fingerprint images at a spatial resolution of 500 PPI in both the horizontal and vertical dimensions, and with a minimum of 8-bits per pixel grey-scale quantization. Although some legacy fingerprint records contained in the system databases may include lower resolution images, the objective is to utilize 500 PPI images to the extent possible		
		Voter software fingerprint image acquisition, display and printing shall be in accordance with applicable FBI IAFIS Image Quality Specifications (IQS), as specified in the most recent version of the FBI Electronic Biometric Transmission Specification (EBTS).		
		All imaging components (e.g., latent input software, multifunction software scanners, etc.) shall be capable of maintaining image quality performance in accordance with their associated IQS minimum standards throughout the life of the component.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		The capability to periodically test image acquisition devices with an FBI standard test target and demonstrate IQS compliance of each imaging component shall be provided with the system. In response to this requirement, the bidder shall explicitly describe the capability or capabilities that will be provided and procedures that will be used to maintain IQS compliance for each imaging device including fingerprint scanners.		
		The ABIS system shall be able to handle both lower resolution and 500 PPI NIST formatted fingerprint image records without limitation. (b) The BVR system shall provide for efficient transcoding between 500 PPI images and lower resolution images if required for internal ABIS identification processing. Internal feature extraction and matching of images at their full original resolution is preferred. Bidders shall explicitly describe whether transcoding from 500 PPI to lower resolution images is required prior to feature extraction and matching in their proposed ABIS solution (c) The ABIS system shall provide for efficient transcoding from 500 PPI images to lower resolution (PPI) images as necessary to support interaction with external devices and systems that are not capable of handling 500 PPI images.		
		The ABIS shall fully support processing of uncompressed images and compressed images, which are compressed using an FBI-certified compression method The system shall utilize any FBI-certified Wavelet Scalar Quantization (WSQ) compression method for the compression of lower resolution fingerprint images, in accordance with the most recent version of IAFISIC-0110.		
		The system shall utilize any FBI-certified JPEG-2000 compression method for the compression of 500 PPI fingerprint images, in accordance with the most recent version of ISO/IEC15444-1, 2019 (the JPEG-2000 standard approved by the FBI for 500 PPI fingerprint images.)		
		The average (mean) compression of fingerprint images that are compressed by the ABIS or any KIEMS kit shall not exceed a compression ratio of 15:1. The Bidder shall specify the average compression ratio standard that will be		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		implemented in the proposed system to achieve optimal identification performance.		
		All image records shall be stored in the Commission-owned storage systems as complete records that must be in compliance with the formatting standards established in the most recent version of the American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information. The system shall store and maintain compliant NIST records for the following types of images: a) 500 PPI WSQ-compressed Fingerprint Records b) 500 PPI JPEG-2000 compressed Fingerprint Records The bidders will be required to provide independent third-party certification as evidence of adherence to these standards.		
		(b) Photo Image Standards (i) The system or software capabilities provided with the ABIS for acquisition and display of facial photos: • Shall generally follow the guidelines established and comply with the latest version of NIST Best Practice Recommendation for capturing facial images • Shall conform to the standards and practices defined in ISO/IEC 19794-5/ICAO, ISO/IEC 19794-6/ICAO (or later) requirements and best practices for Digital Facial Portraits		
		(ii) The Bidder shall provide an implementation of the photo image capture capabilities and configuration recommendations (e.g. compression rates) that are optimized for automated facial recognition performance in accordance with the ICAO standards while maintaining conformance with the NIST best practice recommendation to provide for effective use of the photo records in investigations and voter identification.		
		(iii) Colour photograph images shall be compressed using a compression technique that is in compliance with the Joint Photo Experts Group (JPEG) Standard for Still Image Compression, in accordance with the most recent revision of ANSI/ISO IS10918: 1992, and in conformance with the compression rates specified		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		in the ICAO standards for optimum facial recognition performance		
		(iv) All photo image records shall be stored in the Commission's data storage systems as complete NIST-type records in compliance with the formatting standards established in the most recent version of the American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information The bidder will be required to provide the accessories e.g. backdrops for new kits that provide conditions necessary to comply with ICAO standards.		
		(c) Network and Telecommunications Standards (i) The system implementation shall provide full capabilities for formatting and communicating (transmitting and receiving) ABIS fingerprint record and photo images in accordance with the latest version of the following international standards		
		1. **ANSI/NIST-ITL 1-2011**: *American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information – Part 1*. 2. **ANSI/NIST-ITL 2-2008**: American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information – Part 2: XML Version. 3. **IAFIS-DOC-01078-9.0: FBI** Electronic Biometric Transmission Specification (EBTS). (ii) The system implementation shall utilize TCP/IP Communications Protocol for all LAN/WAN communications. (iii) All communications shall be compliant with IEBC network security encryption requirements for accessing and communicating sensitive personal information, and the selected bidder shall be responsible for ensuring that all installations and operations obtain or support a full compliance certification. 1. The system shall support "strong" password authentication consistent with IEBC ICT Policy guidelines, for accessing and communicating information		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		via the Commission's network infrastructure. 2. The system shall support data encryption for communication of sensitive personal information with external sources and recipients over public and private networks. 3. The system shall provide support for Virtual Private Network (VPN) and Transport Layer Security (TLS) communications for establishing network connections with external sources and recipients over public or private networks. Any TLS encrypted application shall be required to provide 2 factor authentication including primary user-ID/password and secondary authentication, such as HW token, smart card, or biometric verification. For the system and software, the preferred method for secondary authentication is fingerprint biometric identification..		
		The bidder shall provide responsive technical assistance to define network requirements, identify and assess implementation alternatives; implement and test network communications configurations, and perform configuration or reconfiguration to ensure that all installations satisfy all applicable security requirements.		
		Geo fencing capability. The system should be able to operate only within the geographic boundaries of their designated polling stations		
		E-Sim capability. The system should allow activation of a mobile network plan electronically and have a centralized sim management.		
		NB: The bidder will be required to provide independent third-party certification as evidence of adherence to these standards		
		System Administration requirements a. The system shall provide the capability for system operations, including system start-up and shutdown, component reconfiguration, and operational control and monitoring to be performed from a system control console (workstation terminal). b. Dedicated system control console workstations shall be provided and configured with appropriate system control and database administration applications software for the central control and administration of all system		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		configurations, databases, operational processes, system administration functions, maintenance, and reporting. c. The system control consoles shall support on-line access to all operations and maintenance documentation for the central systems and every type of bidder supplied software, terminal and peripheral. d. The system configuration shall include a system control console workstation at the primary installation site and at a mirror site to be identified by the Commission, and a system administrator shall be able to control all processes on both system segments from either location. e. The system controls shall be provided through a graphical user interface, with clear instructions and messages presented to the operator		
		System Configuration Management requirements a. A comprehensive capability shall be provided for the management of the system configuration, including automated and interactive tools for maintaining hardware and software configuration information. b. The system design shall incorporate user-maintainable data structures (e.g., code tables, communications routing tables, user permissions), which define and control all standard codes, values, physical configurations and security, and are supported by comprehensive technical documentation and user training. 1. At a minimum, the following tables shall be user-maintained: i. System network configurations, workstation and software IP addresses, and communications routing codes. ii. Authorized users, user permissions and user access controls. 2. The system shall be maintained by a trained system administrator and shall not require re-programming or manufacturer intervention to maintain system tables. 3. The system shall provide capabilities that enable an authorized system administrator to easily edit, add, or delete individual entries in any table or		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		update/replace a complete table. 4. The system shall provide capabilities that enable an authorized system administrator to: i. Automatically confirm successful installation of the updates. Automatically log the updates for administrative reporting; and ii. Automatically report any update errors to the system administrator. c. Software version updates and corresponding updates for user documentation shall be provided under the system warranty and any subsequent maintenance agreement. d. All software updates and software or hardware shall be subjected to formal change control review and approval before being applied. e. An administrative capability to track and report change history shall be provided with the system. f. The system shall include a capability to test changes in an identical operational system environment (sandbox) prior to introduction of the changes into the production configuration. g. The system shall include an in-built capability to roll back changes. h. The vendor should ensure application of security hardening features before deployment		
		System Status Monitoring and Diagnostics a. The system shall provide system monitoring and alerting capabilities using Simple Network Management Protocol (SNMP) monitoring, with capabilities including: 1. Capability to automatically monitor the central system components, processes and infrastructure services, and to provide real-time detection of the occurrence of system problems including hardware component failures, software problems and service interruptions. 2. Capability to automatically generate and send email messages for notification to the system administrator and/or the responsible maintenance entity regarding the detection of a system problem 3. System administrator dashboard display of system		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		status and problems detected with drill-down descriptions of response requirements. 4. Capability for authorized management personnel to access and monitor system usage and system status dashboard information from a networked workstation. b. The system capabilities for remote monitoring, diagnostics and correction of problems shall be subject to the following: 1. The remote access capability shall be implemented under the direction of IEBC/ICT and shall be fully compliant with IEBC network security and access control policies. 2. Remote access to the system shall be controlled by IEBC/ICT, and the remote access capability shall be capable of remaining in a disabled state, unless it is specifically enabled on a temporary basis to support scheduled routine maintenance or remedial maintenance. c. The system shall maintain system monitoring logs, which are defined as the date/time stamped record of system or component starts and restarts, system or component shutdowns and off-line conditions, hardware errors reported by the operating system, software errors reported by the system's applications software programs and infrastructure electrical service and network communications interruptions. 1. The system shall provide on-line retention of daily system monitoring logs for at least 90 days, followed by permanent archival storage. 2. The system shall enable authorized system administration and system support personnel to access the system monitoring log, application logs and to selectively print reports for a specific error or incident or for a specified time period, from any device. Reports shall be in an easy-to-read format that clearly states the nature and extent of the hardware and/or software problem reported. 3. The system shall be capable of providing error logs and system status information in response to system user requests. This information shall provide		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		intelligible assistance in the trouble-shooting and fault diagnosis of problems. d. The system shall provide built-in system diagnostics and error correction capabilities, including: e. Interactive diagnostic tools with comprehensive capabilities for status checking and problem isolation for every component of the central system segments. 1. Comprehensive on-line system administration documentation, including descriptions of system error messages and their interpretation, system diagnostic capabilities and operational procedures, and response requirements for specific problems. 2. Remote control troubleshooting and maintenance capability to allow a remotely located system engineer to operate central server and networked workstation or software diagnostics, correct operational problems and download software modifications.		
		System Status Monitoring and Diagnostics (i) The system shall provide system monitoring and alerting capabilities using Simple Network Management Protocol (SNMP) monitoring, with capabilities including: 1. Capability to automatically monitor the central system components, processes and infrastructure services, and to provide real-time detection of the occurrence of system problems including hardware component failures, software problems and service interruptions. 2. Capability to automatically generate and send email messages for notification to the system administrator and/or the responsible maintenance entity regarding the detection of a system problem 3. System administrator dashboard display of system status and problems detected with drill-down descriptions of response requirements. 4. Capability for authorized management personnel to access and monitor system usage and system status dashboard information from a networked workstation. (j) The system capabilities for remote monitoring, diagnostics and correction of problems shall be subject to		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		the following: 1. The remote access capability shall be implemented under the direction of IEBC/ICT and shall be fully compliant with IEBC network security and access control policies. 2. Remote access to the system shall be controlled by IEBC/ICT, and the remote access capability shall be capable of remaining in a disabled state, unless it is specifically enabled on a temporary basis to support scheduled routine maintenance or remedial maintenance. (k) The system shall maintain system monitoring logs, which are defined as the date/time stamped record of system or component starts and restarts, system or component shutdowns and off-line conditions, hardware errors reported by the operating system, software errors reported by the system's applications software programs and infrastructure electrical service and network communications interruptions. 1. The system shall provide on-line retention of daily system monitoring logs for at least 90 days, followed by permanent archival storage. 2. The system shall enable authorized system administration and system support personnel to access the system monitoring log, application logs and to selectively print reports for a specific error or incident or for a specified time period, from any device. Reports shall be in an easy-to-read format that clearly states the nature and extent of the hardware and/or software problem reported. 3. The system shall be capable of providing error logs and system status information in response to system user requests. This information shall provide intelligible assistance in the trouble-shooting and fault diagnosis of problems. (l) The system shall provide built-in system diagnostics and error correction capabilities, including: (m) Interactive diagnostic tools with comprehensive capabilities for status checking and problem isolation for every component of the central system segments.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		1. Comprehensive on-line system administration documentation, including descriptions of system error messages and their interpretation, system diagnostic capabilities and operational procedures, and response requirements for specific problems. 2. Remote control troubleshooting and maintenance capability to allow a remotely located system engineer to operate central server and networked workstation or software diagnostics, correct operational problems and download software modifications.		
		System Security and Access Control f. The security administration capability shall ensure that all bidder-supplied workstations that access the systems, functions and data, including central consoles and administrative software, as well as installed user software at local and remote offices, comply with and enforce user compliance with the IEBC/ICT policy. Bidders shall provide a detailed description of their proposed security administration and authentication capabilities and how these capabilities will satisfy the ICT Policy. g. The security management software shall provide the following functions and capabilities: i. Automatically log-off a current operator when a new operator logs on, to ensure that only a single operator can be the operator of record at any given time. ii. An automatic log-off capability that will disable a workstation or software after a pre-determined time interval during which the workstation or software is inactive. The system shall include provisions to ensure that no in-process data or work is lost if a software is automatically logged off. h. All software shall have a standard password-protected screensaver. i. Software and workstation screensavers shall be configured to activate when not in use for a configurable period of time (as per IEBC policy). Re-entry of the login information (fingerprint scan or user ID + password) shall		

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		be required to regain access to the workstation or software. j. Users shall not be able to install other screensavers or wallpaper. k. The system shall provide scheduled and on-demand administrative reporting including but not limited to: 1. Periodic summaries of authorized users, including individual permissions, user status (active or suspended) and date of last log-in. 2. Periodic password policy compliance audits. 3. Periodic security assessment audits, including unsuccessful login analysis. 4. Other specific administrative reports defined in consultation between the Commission and the selected bidder.		
		Access Control Provisions (i) The system shall provide comprehensive tools and capabilities for administration of user authorizations and system security. (j) The system shall enable an authorized system administrator to add and remove users, to assign, modify and suspend access privileges for any user or group of users (e.g., Registration Officers, administrators etc.), and to reset passwords. (k) All system software shall restrict each user's access to the application, maintenance and operating system functions of the software and the system applications, according to each user's specific access authorizations. (l) Access to each principal function and capability to perform database inquiries and updates shall be limited to authorized users and system administrators. (m) The system shall support the assignment of specific access privileges for each user and shall enable the limitation of access to only those functions required by the user to perform his/her assigned tasks. (n) Access to system functions shall be controlled by individual operator log-on identification, whether at a central software or a remote site. Login access shall be		

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		controlled with a unique user login name plus password. (o) In production operations, generic user IDs and/or passwords for any component shall not be permitted. (p) The system shall support strong password authentication and enforce associated password policies: (q) The system shall enforce the Commission policy for password formats and contents, including minimum 8-character passwords using mixed upper and lower case letters, numeric digits and special characters, and prohibiting use of dictionary words, etc., in accordance with IEBC ICT Policy guidelines. (r) The system shall enforce the Commission policy requiring periodic password changes for all users and prohibiting re-use of passwords for 10 cycles. (s) The system shall log all successful logons/logoffs and all unsuccessful logon attempts. (t) The system to have multi-factor authentication functionality (u) The system shall enforce a maximum number of unsuccessful logon attempts, such that when this limit is reached, the logon ID shall be automatically disabled and require intervention of an authorized supervisor or administrator to re-enable the user's access rights. The system shall enable an authorized system administrator to establish and update the "maximum unsuccessful logon attempts" parameter.		
		Management Reporting (i) The management reporting system must have the capability to integrate the Commission's existing business intelligence systems. (j) The system shall provide the capability to generate statistical analysis and system activity reports, including standard pre-defined management reports and special reports based on user-defined ad-hoc queries. (k) The initial delivery of the system shall include a comprehensive set of standard catalogued management reports that will be produced by the system on a regular recurring basis. Full reporting capabilities shall be		

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		provided with the initial operational capability delivery of the system. The selected bidder shall work closely with IEBC to define all details of the standard management reports (report types, content, frequency, routing, etc.) to be implemented in and delivered with the initial system configuration. Such reports include: 1. Total number of voters (grouped at all levels national, county, constituency, ward, polling station etc.) 2. Gender statistics per electoral unit at all levels (national, county, constituency, ward, polling station etc.) 3. Age distribution reports per electoral unit at all levels 4. Exceptional register (double registered etc.) per electoral unit at all levels (l) A capability shall be provided that enables a system administrator to establish regular reporting schedules for each type of report, and that produces the reports according to the pre-defined schedules. (m) The system shall enable an administrator to selectively generate any standard report on- demand under operator control and this shall not affect the established automatic production schedule for the report. (n) The standard report generation capability shall include interactive controls that enable an operator to selectively enter filtering parameters such as constituency, polling station and date range to generate specific reports. (o) Standard reports shall be able to be automatically routed according to a pre-set distribution list, or routed under operator control to designated network software and/or network printers		
		Database Statistics reports: i. The system shall provide standard pre-defined reports for reporting database content statistics, including: a. Record counts by record type, originator, record date, etc. b. Record counts and statistics for complete and incomplete records. ii. The system shall provide standard pre-defined reports for reporting database activity for a user selected time period, including: a. Record adds, changes and purges for a selected record type or a selected record. b. Database audits and integrity checks.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		c.Backup activity, status, and media usage for a selected date or time period.		

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	Item Description	**Evidence**		
		j) System Transaction Activity Reports 1.The system shall provide the capability to access transaction logs and to develop standard pre-defined reports for reporting: 2.System transaction activity during a specified time period, including: (a) Transaction counts by transaction type, originator, time-of-day and day-of week, etc. (b) Processing statistics for automated and manual processing and rejected transactions, by transaction type, originator, etc. (c) System operations, including downtime and error incident counts and statistics. (d) Transaction, logon and security audits. 3.System throughput and response time statistics during a specified time period, including: (a) System backlog report by transaction type, time-of-day and day-of-week, etc. (b) Fully automated input, processing and closure statistics, by transaction type, originator, and result. (c) Manual process throughput and timing statistics by record type and operator ID. 4.Identification operations statistics during a specified time period, including: (a) Fingerprint detail, quality statistics, submission rates, closure rates and end-to-end processing times by record type and originator. (b) Unsolved latent statistics, latent search counts, end-to-end processing times and hit rates against fingerprint records and unsolved latent by operator ID and location. (c) Manual process throughput and timing statistics by record type and operator ID. (d) Latent case processing and results report for a specific latent case, including case information, examiner identification, original and edited latent images, search results, and identification results.		

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		Ad-Hoc Reporting 1. The delivered system capabilities shall include a capability to generate ad-hoc reports. 2. The ad-hoc reporting capability shall be able to access all elements of all system databases and activity logs, including archived logs as necessary, for the compilation of report information. 3. The ad-hoc reporting capability shall include the capability to enable a system administrator to catalogue frequently used ad-hoc reports and add them as scheduled or on-demand standard reports. 4. Bidders shall provide a comprehensive description of their proposed solution, and explicitly describe any limitations of the ad-hoc reporting capabilities.		
		System Backup 1. The proposed solution should be capable of backing up the data at defined periods on external media or remote locations. Both manual and automated unattended backups should be possible from the system including backup /recovery cycle testing or simulation.		
		Data Versioning and Audit Trail 1. The system must include in-built and comprehensive voter records versioning, auditing and audit trail features including facility to monitor system usage both online and in hard copy, showing data modifications activity by: (i) user id (j) application/module (k) field altered (l) terminal (m) date/time (n) Activity audit trail of critical changes 2. This facility must keep a record of all deletions, updates and additions to the voters' database and associated table at all times for archiving and retrieval.		
		Data Migration The bidder, shall undertake the following 2. Submit a compressive data migration plan with deliverables and timelines as part of the bid document. 3. Migrate the existing register of voters' data into the new system within six (6) weeks upon contract		

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		signing.		
TECHNICAL SPECIFICATIONS FOR BIOMETRIC VOTER IDENTIFICATION (BVI) AND VERIFICATION (BVV)				
	BVI –Front End Application	For purpose of identification and verification of voters at the polling station as per the electoral law, the system should: Authenticate and securely identify voters biometrically on the polling day using either fingerprint, facial or iris recognition.		
		Allow an alternative search other than fingerprint, facial image, iris or other unique identifier. Provide an option for assisted search for voter data if necessary.		
		Provide a statistics summary report of: i. Election type ii. Polling status (closed/open) iii. Polling opening date and time iv. Polling centre name v. Polling station code vi. Total number of registered voters vii. Total number of authenticated voters viii. Total number of voters authorized by PO ix. Voter turnout (percentage) x. Device power status xi. Serial number of device		
		Generate reports on polling day activities. Provide capability to display the time, polling station identification data, status during election day and the number of voters processed during normal voting period as well as extended voting period (voters who are on the queue after polling station closed).		
		Ability to redirect voters to the correct polling station.		
		The register of voters (PDF) are embedded with a polling station QR code that ties a given register of a particular polling station to a given kit on Election Day. The QR code is used to open the EVI application for the polling station at the beginning of polling.		

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	Item Description	**Evidence**		
		Each kit should hold biometric details of voters for a pre-defined zone and should restrict to biometric details of a polling station.		
		Must integrate with an MRZ identification code capture system and must be capable of reading the national ID card. (second generation, Maisha cards as complementary to biometric)		
		The system should be able to display biographic data and voting status of the voter on the polling day.		
		Provide ability to start and close a polling period.		
		Once the polling period has closed, the system should not allow identification of any more voters.		
		Closing of the polling station is not allowed during normal voting period, however Emergency closing of polling period should be allowed in the KIEMs kit with a justification. (as guided by Elections Act Section 55)		
		The system should provide a report with the following details. i. Voter turn-out ii. Voter identification details iii. Polling period opening and closing iv. Audit trail logs		
		Ability to periodically generate and transmit voter identification logs from all gazetted polling stations locations to the BVI back end system.		
	Biometric Voter Identification – Backend system	The BVI backend system must be integrated with Biometric voter registration system and should have tools to enable IEBC staff to perform the following: -		
		Extract the register of voters (Biometric and Alphanumeric) from BVR system per elective area such as County, Constituency, county assembly ward, Polling Centre and Polling station onto SD cards or any other solution the vendor may use to achieve the same.		
		Configure the KIEMS kits with voter's data for purposes of identification for polling day for By-elections, general elections, referendum and external elections.		
		Ability to remotely configure, update, monitor, disable, wipe the BVI application software or settings on the device.		

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	Item Description	**Evidence**		
		Generate verifiable read-only logs for the voting day activities.		
		The system should provide the following reports filtered by electoral areas: i. Periodic Voter turn-out report ii. Voter identification report iii. Voting day statistics iv. Voter turnout aggregated report by gender, Age and disability v. Returning officer report on Polling station opening and closing time vi. Blacklisted and whitelisted devices.		
		The BVI central system should have functionality for generating a unique digital certificate for each kit deployed. This digital certificate shall authenticate the identification logs received.		
		Ability to whitelist and blacklist devices based on unique hardware identity.		
TECHNICAL SPECIFICATIONS FOR RESULTS TRANSMISSION MODULE				
	A) RTS Front-end application	There shall be a Result Transmission System (RTS) as part/module of KIEMS. The system should enable the management of election results in a transparent, secure and efficient manner. The system should have the following capabilities.		
		The Elections act requires the Commission to electronically transmit presidential results in the prescribed form (image) from the polling station. The supplied system should be configurable to transmit results for one or more elective positions.		
		The QR code for RTS is used for opening the results transmission application and thus enabling the device to transmit election results at the end of polling.		
		Have the capability to scan election results forms and transmit to a central server for storage and allow for publication to an online portal.		
		The order of the fields on the RTS application should be the same as the order on the statutory results form.		
		The image capture/scanning of the results should be of the best quality.		
		Provide validation of data entered as prescribed by the Commission		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		Have the capability to generate digital signatures of the results from the polling station and the digital signature should be embedded on the scanned results form.		
		Ability to download software updates and easily configure the RTS Front end application.		
		Ability to specify the electoral area (Using QR code)		
		The application should have an interface to authenticate election officers.		
		The applications should be scalable to accommodate several elective positions such Presidential, Governor, County Women		
		Representative, County Assembly Ward, National Assembly and Senate in general elections, referendum questions or any other elections.		
		The application should securely transmit the results over the telecommunication network to the RTS back-end for consolidation and publication.		
		In the event that the scanned copy of results cannot be transmitted from the polling station, the system should store the results until the network is available and then transmit.		
		In general, the application should demonstrate the following features: a) The system should have visibility and legibility of menus, text and graphics. b) The interface screens and actions buttons should be consistent. c) Error messages should explain how to recover from the error. d) Undo should be available for most actions. e) Actions which cannot be undone should ask for confirmation. f) It should be easy for the user to use the navigation keys on the application. g) The help should be context sensitive and fully explain how to achieve common tasks.		
		The user/training manuals and technical documentation should be provided.		
		The application shall have features and capability to transmit scanned official signed forms and send them to a central server which will be publicly accessible through a web portal. The scanned copy of the results forms should be automatically named by the system according to the polling		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		station codes as will be prescribed by the Commission.		
		After successful transmission of results, the application must transmit all the logs for the polling day.		
	B) Returning Officer/ Tallying center module	The tallying centre module for the returning officers should have the following capabilities. Capturing of results **Form A** from the polling station at the constituency tallying centre, tabulation and display of collated results as declared by the returning officer.		
		1. The System should have an option for data entry capability to support transmission of vote count data as follows: a) When counting at the polling station is complete, the system shall open the capture function of the results per candidate. This function should be simple and very clear, to eliminate human error in the operation. At least, the application must include the following automatic verification and validation checks: i) Total addition of votes cast should be less or equal to voters registered at the polling station. ii) Total addition of rejected ballots and valid votes for candidates should be equal to total votes cast. b) Once the data entry is completed, the system must be able to display and save an electronic report with a summary of the information entered on the screen for verification. 2. Uploading / transmission of the declared results on form B in PDF and CSV format to the RTS backend. 3. Generation of collated text results (Form B) from polling stations at constituency level. The forms should be exported in PDF and CSV formats. 4. Generation of collated text results form (form c) from constituency level at the county and national tallying centre. The forms should be exported in PDF and CSV formats.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
	C) RTS Back End Application	This is a server side system application used to receive the transmitted results. The backend system should be able to process at least 60,000 concurrent sessions.		
		The system should integrate with the Candidate Registration Management System module and the Biometric register of voters.		
		The system should have the ability to remotely configure, update, monitor, disable, wipe the RTS application software or settings on the device.		
		The systems shall be able to display the transmitted results from approximately 60,000 polling stations.		
		The system should allow scalability to accommodate an increase in number of voters and/or polling stations.		
		The system should have the ability for configuring different types of elections including external elections for other institutions.		
		Servers: The commission shall provide the server infrastructure. The proposed back-end software application must be able to run on the provided infrastructure. The Commission will provide the information of the infrastructure upon request.		
		The system should have an interface for verification of results by candidate agents and independent auditors at the constituency tallying centres before publication.		
		The system should us AI or such advanced character recognition technology to recognize handwritten as well as printed text and covert to editable digital text, ICR (-Intelligent Character Recognition). Using this capability, the system should be able to extract the text results from the scanned Forms 34A into a database for purposes of compilation of Forms 34B and Form 34C.		
	D) Telecommunications infrastructure	Any connectivity that may be required by the acquired system shall be provided separately by the Commission via telecommunication infrastructure provided by telecommunication service provider.		
	E) Infrastructure for publishing elections results	The vendor shall be required to publish election results forms in a public portal as prescribed by the commission.		

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	forms			
	F) Reporting	The solution shall provide tabular and graphical chart display of the results data at the tallying centre (the commission to provide the format).		
		The solution shall have the functionality to generate customized and ad-hoc reports as will be prescribed by the Commission.		
		In addition to the transmission of results, the application should also be capable of providing regular reports on voting day events: - a) Opening and closing of polling stations. b) Periodic voter turnout.		
		The solution shall be able to publish the election results to IEBC portal which will be accessible to the public for displaying election results i.e. scanned statutory forms (form 34 to form 38)		
	G) Controls	Provide granular, role based user rights management where rights shall be assigned to a role and users shall be assigned to a role.		
		Provide end-to-end multi-layer application level security for user authentication and authorization		
		Provide tamper-proof logs for all activities and alerts on every transactional event		
		The application should have the ability to encrypt and use digital signatures on all data transmitted. No data will be transmitted in clear text.		
		The central administration of these certificates should make it possible for administrators to revoke certificates on rogue hardware.		
		The following system security information should be available on the kit a) Hardware IMEI b) SIM card IMEI and Serial Number c) Hardware MAC Address d) Election official handwritten signature for audit purposes e) Polling Station name and code f) The system should provide tamper-proof logs for ensuring a strong auditing process of the reported		

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		results.		
	SYSTEM SECURITY REQUIREMENTS	Bidder MUST Provide Technical design document or Methodology demonstrating how System Security will be managed in the following:		
		The application should comply with the ISO IEC 17799 and ISO 27001/27002 standards on Access Control and the use of both authentication and authorization		
		The system must include a user authentication mechanism that prevents unauthorized persons from accessing the system.		
		The system should provide alerts on key system functions (opening/closing, voter identified correctly, misidentification). The alerts should be clear and visual to minimize errors by the user.		
		The system should ensure traceability of election officials' operational activities on the system.		
		The upload of voters' biographical and biometric information must be performed in compliance with the highest standards of security and confidentiality.		
		It is desirable that the entire flow of information is performed through a single suite of applications with a single layer of security and an auditable registration system and verifiable events.		
		The technical documentation, testing documentation, and quality assurance documentations of the system must be provided.		
		The system should enable secure storage of system logs.		
		The system must have a self-test function that allows the user to check the readiness for use of the equipment before the opening of the polling station and ensure that the data stored in the system corresponds with the appropriate polling station.		
		All applications should have the ability to use strong encryption and also digitally sign all data transmitted. No data will be transmitted in clear text.		
		The central administration should enforce use of digital certificates for any data.		
		Transmitted across the network and should make it possible for administrators to revoke certificates of rogue end user devices/Kits.		
	TECHNICAL SUPPORT DURING ELECTORAL ACTIVITIES	The successful bidder will, beside supply, delivery and installation of the system, be required to offer technical support during electoral activities on "as and when required basis". Therefore, the bidders are required to provide Proposals with an operational plan in all the following requirements:		

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		Provide corrective and/or preventive software maintenance to ensure effective performance of the software.		
		Supply and delivery of additional KIEM kits and accessories to replace faulty or missing components that includes power banks, SD cards, safe light packaging – carrying cases, Security seals among others.		
		Provide second level technical support before, during and after the electoral activity.		
		Provide software upgrades to address emerging needs of the Commission without impacting on the entire system architecture		
	PROJECT MANAGEMENT	The bidder shall be required to provide a detailed project plan covering the entire period from project planning and design, project initiation, project management until the project closure indicating key milestones which shall be measurable and pegged to deliverables.		
	Delivery, installation, configuration, testing and commissioning of the KIEMS software.	The entire project scope in this tender shall include the three (3) phases below. The vendor shall provide a detailed project implementation roadmap covering the each phase. In this phase, The plan shall address the following aspects:		
		Configuration of the devices at the Election Technology Centre (ETC) for delivery by IEBC to the Counties and Constituencies.		
		Installation, configuration and testing the KIEMS system with responsibility matrix.		
		Systems Integration, configuration, customization, and change management.		
		Data export from the central system and import onto all the Voter Identification Software indicating the timelines, infrastructure or other components required.		
		User Acceptance Testing and quality assurance plan.		
		The commission will carry out a joint inspection and testing with the supplier to confirm that the system is in a working condition.		
	Election Day support for the supplied solution.	The plan shall address the following aspects**:**		
		Integrated system setup and configuration to ensure that the right data is copied accurately to the correct hardware for the respective polling station.		
		Proposed data preparation, data conversion, and data migration and testing processes prior to the Election Day		
		Data migration approach (centralized or distributed).		
		Training and testing plan		
		Integrated system and implemented deployment process to ensure that the right hardware goes to the right polling station.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
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		System access and security management.		
		Reliability and availability management.		
		Election Day diagnostics and support.		
		Systems backup and support in case of failure of primary hardware.		
		System stress test and load testing.		
	Post-election support and maintenance services.	In this phase, the plan shall address the following aspects:		
		Support and maintenance on software provided on the hardware.		
		Equipment Spares and timelines for replacement		
		Warranty and equipment replacement.		
		Service Level Standards and metrics for all kinds of incidence		
		License renewal		
	WARRANTY	Bidder MUST submit a Proposal containing sufficient information in all the following requirements:		
		In order to ensure effective and efficient use of the solution, the vendor shall be required to provide a comprehensive warranty on the hardware, software and parts.		
		The vendor shall provide guarantee for effective and safe use of the equipment and software and shall indemnify the commission against any manufacturer's defects, faults or unexpected system performance.		
		The system shall be covered by one (1) year manufacturer's warranty covering all elements of the system hardware and software, parts and labour beginning upon successful completion and deployment of the system		
		The vendor shall provide an extended warranty of Two (2) years payable annually.		
		Vendor shall perform diagnostics jointly with the IEBC technicians to identify the problem and provide repairs services or replacement of any equipment or component to restore the hardware devices and software to full operation.		
		All repair work must be performed within five (5) days of receipt of request. However, during a 14-day period prior to the election activity, all requests for repair or replacements must be completed within 24 hours.		
		The vendor must provide software upgrades and patches when required while the system is under warranty.		
		Equipment must be supported by the vendor and replacement parts must be available from the vendor for not less than Three (3) years after the acquisition.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
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	SUPPORT AND MAINTENANCE	Bidder MUST submit a Proposal containing sufficient technical design information in all the following requirements:		
		The bidder shall be required to provide a comprehensive plan for providing technical and operations support, preventive and remedial maintenance services for the integrated system supplied.		
		The support and maintenance services shall cover the entire election cycle from pre-election period, election period and post-election period.		
		The post- election support and maintenance shall cover aspect regular preventative and corrective maintenance services. The Support and maintenance services should cover a period of Three (3) years. The annual support and maintenance cost shall be billed on time and material basis and expressed in the price schedule		
		All licenses provided by the vendor (e.g., MRZ, MDM, Power BI, SSL, Database) shall be valid for a minimum period of three (3) years. The proposal should also provide for license flexibility, allowing the Commission to negotiate and adjust the number and types of licenses required within the framework contract, based on operational needs.		
		Vendors shall provide the cost per voter license based on the projected **30 million voters**, clearly indicating the unit cost and the total licensing cost for the full voter base. This will enable the Commission to evaluate scalability and long-term cost implications of the proposed solution		
	A. Support and Maintenance Requirements	Provide system support, including system configuration, system operations, database administration, reporting, system performance monitoring, back-up operations, and basic fault diagnosis and troubleshooting operations.		
		Set up a technical support desk at the county level for providing on-site support at-least 1 days before the general Election and on the polling day.		
		Set-up an online Help desk and contact centre starting 14 days prior to the general elections which will provide technical support during normal business hours with a four-hour response time for urgent issues, and with immediate response time on Election Day through the hotline.		
		The vendor must indicate the numbers, qualifications and certifications of their support personnel who will be deployed during the entire support and maintenance period.		
		The vendor must indicate whether any of the sub-components (hardware and software) shall require payment of any license fees over the lifetime of the solution.		

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		All service and support of the System shall be provided under a comprehensive Support and Maintenance Agreement for the system. The Support and Maintenance Agreement shall provide for all of the maintenance support elements defined in the section, and the selected bidder shall be solely responsible for delivery of maintenance services under the contract.		
	B. Required Service Level Standards	The Service Level Agreement shall include the specifications outlined in below. In their proposals, bidders MUST address how they will comply with EACH of the requirements in this Clause.		
		Help Desk Support is available in Kenya during normal business days and business hours of IEBC (8:00 am to 5:00 pm every working day 5/7).		
		When necessary the problem is escalated to the vendor. The Hotline (Help Desk) should be available from 9:00 am to 6:00 pm (GMT+3) every working day 5/7.		
		All incidents shall be logged onto the incident management system provided by the vendor throughout the contract period. I. The bidder shall provide a Service Level Agreement demonstrating that critical incidents, where the system is unavailable, major functionality is down or the majority of users are affected, will have a response time of less than 2 working hours and a resolution time of within 1 working day from the time of notification. II. The bidder shall provide a Service Level Agreement demonstrating that major incidents, where system capacity is reduced or some users are affected, will have a response time of less than 4 working hours and a resolution time of within 2 working days from the time of notification. III. The bidder shall provide a Service Level Agreement demonstrating that minor incidents, where non-essential functions or a minority of users are affected, will have a response time of less than 6 working hours and will be resolved on a best-effort basis from the time of notification. NB: A monthly maintenance activity report will be provided. It will comprise notably the list and status of recorded incidents, interventions and maintenance actions undertaken.		
	TECHNICAL SKILLS, KNOWLEDGE TRANSFER AND TRAINING	Bidder MUST submit a Proposal containing delivery methodology in the following requirements:		
		The bidder shall provide training Programmes for IEBC management, system administrators, system users, Operations Managers and supervisors and designated ICT technical staff.		
		The selected bidder shall develop detailed skills, knowledge-transfer and training plan identifying the task and milestone schedule for coordinating training requirements coordination and training		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		delivery.		
		The training plan shall provide comprehensive training in the operations and management of the system and its components, as applicable to users, supervisors, managers and operations support personnel.		
		Bidders shall be required to develop customized training documentation and to deliver customized training with manuals covering hardware, software and the system functional processes for the election.		
		The training proposal shall cover both practical (hands-on) and theory training.		
		The hardware and software supplied shall be capable of supporting training of new users without impacting production operations or the integrity of the system's identification records databases.		
	Training Requirements	The successful bidder shall coordinate with all IEBC operational units to identify the training requirements for each group of users, supervisors, technical staff and managers, including:		
		Number of users, supervisors, and managers requiring training, and the maximum number that can be trained in each training class;		
		Specific training to be provided in each of the general types of training classes identified above, and the estimated duration of each class.		
	Training Delivery	The selected bidder shall be responsible for all aspects of training, except for facility and resource mobilization (trainees in particular) for loading of ABIS data to the Electronic System for supervisors and administrators training.		
		A successful bidder shall assign a dedicated training Manager who shall be assigned to lead the planning, preparation, coordination, and delivery of training to the IEBC staff.		
		The Training Manager shall work closely with IEBC's training Coordinator to ensure that IEBC policies and procedures are correctly represented in each training session.		
		The training program shall be approved by the commission to ensure that the training objectives are achieved.		
		The training sessions shall comprise IEBC Commissioners, management staff, regional managers, technical and operations staff.		
	Training Courseware	Comprehensive training courseware and associated training material shall be developed and submitted for review and approval. Any required modification or updates shall be incorporated and final courseware and material shall be delivered prior to commencement of training.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		All lesson plans, courseware and training material and videos shall be delivered in an electronic form that can be reproduced and used by IEBC in on-going training and shall become the property of the IEBC. This material shall be appropriate for use in future classroom-based training and in on-line self-directed training for new employees.		
		Under the system maintenance agreement, the selected bidder shall provide updates and modifications to the courseware and training material as required. The bidder should also maintain current training material as system upgrades and changes are implemented throughout the life of the system.		
	Scheduling and Conducting Training	On-site training shall be provided for IEBC constituency field officers in Nairobi at central level.		
		The bidder shall also cater for organize periodic technical training at the vendor's premise or preferred environment.		
		The selected bidder shall develop a training delivery schedule in close coordination with the Commission.		
		Each type of training identified above shall be scheduled in coordination with the IEBC and the designated department, and the final coordinated schedule shall be incorporated in the final Training Plan.		
		Multiple training sessions shall be provided as required to accommodate all designated trainees.		
		The table below lists the projected number of personnel in each relevant organization unit of the Commission that shall receive each type of training in association with the implementation of the BVR. The TOT training will be conducted centrally.		
		On-site training shall be provided for IEBC constituency field officers in Nairobi at central level.		
		The bidder shall also cater for organize periodic technical training at the vendor's premise or preferred environment.		
		The selected bidder shall develop a training delivery schedule in close coordination with the Commission.		
		Each type of training identified above shall be scheduled in coordination with the IEBC and the designated department, and the final coordinated schedule shall be incorporated in the final Training Plan.		
		Multiple training sessions shall be provided as required to accommodate all designated trainees.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		Training on the System Overview for 50 Commission and Secretariat staff.		
		ICT Technical Training for 70 ICT Headquarters and County ICT staff.		
		ICT Administrator Training for 10 ICT Administrators.		
	TECHNICAL KNOWLEDGE TRANSFER TECHNICAL KNOWLEDGE TRANSFER	The successful bidder shall be required to set up a sandbox environment for technical testing and training.		
		The successful bidder shall conduct full technical knowledge transfer for Commission staff covering, but not limited to, the following areas to ensure full operational control of the supplied solution:		
		System installation of BVR, EVI and RTS for both front-end and back-end functions.		
		System configuration of BVR, EVI and RTS covering applications, databases and operating systems.		
		System integration processes through either import, export or scripting.		
		Data validation, verification and quality control processes.		
		Security configurations and controls for BVR, EVI and RTS applications and databases.		
		Network configurations for BVR, EVI and RTS.		
		Network configurations for BVR, EVI and RTS.		
		System administration and monitoring tools for BVR, EVI and RTS.		
		System support and troubleshooting tools of BVR, EVI and RTS.		
		Report extraction and generation tools for BVR, EVI and RTS.		
		Business intelligence for report generation.		
	Technical Handover	The bidder shall hand over all system configurations, licences, administrative credentials, digital certificates and other artefacts required for the Commission to independently operate and maintain the proposed solution.		

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
		The bidder shall conduct a joint system verification, testing and acceptance exercise with the Commission before final handover of the solution.		
		The bidder shall submit a final project completion and handover report, including all deliverables, technical documentation and recommendations for the operation and maintenance of the solution.		
	Knowledge Transfer	The bidder shall provide a knowledge transfer plan for **23 ICT Headquarters staff (Cluster 1)** covering the installation, configuration, administration, operation and maintenance of the proposed solution.		
		The bidder shall provide a knowledge transfer plan for **47 County ICT Officers (Cluster 2)** covering the installation, configuration, administration, operation and maintenance of the proposed solution.		

C. VENDOR EVALUATION.

TECHNICAL SPECIFICATION	REQUIREMENTS	COMPLIANCE
Hardware and Technology Ownership	The Bidder should provide evidence of technology ownership	
	The Bidder should attach Manufacturer Certificate/Authorization to prove ownership/dealership	
Firm's Experience in Electoral Technology	Bidder should provide evidence that they have been in similar business of supplying devices, hardware equipment and accessories for the last 5 years. Attach Certified copies of contracts and purchase orders for the 5 years.	
Business Operational Capacity	The Bidder shall should provide evidence of at least one business undertaken of 50,000,000 USD and above in the years 2021, 2022, 2023, 2024, and 2025 cumulative for Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the Election Technology Software, Hardware Equipment and Accessories. Attach certified copies of contracts and corresponding purchase orders.	
	The bidder should provide evidence of having supplied at least 50,000 devices to a single client and above in the years 2021, 2022, 2023, 2024, and 2025 cumulative.	

	The bidder should provide evidence of having carried out Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the Election Technology Software, Hardware Equipment and Accessories to at least two countries in the years 2021, 2022, 2023, 2024, and 2025 cumulative. Attach certified copies of contracts/ purchase orders	
	The bidder should provide recommendation letters from five (5) clients on implementation of elections systems.	
	The bidder should provide completion certificates from Three (3) clients on implementation of elections systems carried out in the years 2021, 2022, 2023, 2024, and 2025.	
Support and Maintenance	The bidder should provide a detailed support and maintenance plan	
Local representation	The bidder must show proof of ICT technical support staff with a local registered office in the country	
Warranty	The bidder should provide one (1) year warranty and an extended two (2) years warranty for all software and hardware components.	

i) Requirements of the Supplier's Technical Team for the IT Contract:

TECHNICAL SPECIFICATION	REQUIREMENTS	COMPLIANCE
Resources /Skills	**Team Leader**	
	The project manager MUST have a minimum of master's degree in computer science or IT	
	The project manager MUST have a minimum of bachelor's degree in computer science or IT	
	Project Manager must provide a globally accepted professional certification in project management	
	Project Manager should have minimum Ten (10) years' experience in the implementation of National Biometric Recognition systems with elections bodies	
	Project Team Members: Project implementation team members should have a minimum degree in Computer science or Information Technology and listed as below:	

ii) Transfer of knowledge and training program *(relevance of approach and methodology):*

S/No	Evaluation Criteria		Bidder Response	Compliance (Y/N)
	Item Description	**Evidence**		
1.	**TECHNICAL SKILLS/ KNOWLEDG/ TECHNOLOGY TRANSFER AND TRAINING**	Bidder MUST submit a Proposal containing delivery methodology in the following requirements:		
		The selected bidder shall develop detailed skills, knowledge-transfer and training plan identifying the task and milestone schedule for coordinating training requirements coordination and training delivery.		
	Training approach and methodology	The training plan shall provide comprehensive training in the operations and management of the system and its components, as applicable to users, supervisors, managers and operations support personnel.		
		Bidders shall be required to develop customized training documentation and to deliver customized training with manuals covering hardware, software and the system functional processes for the election.		
		The training proposal shall cover both practical (hands-on) and theory training.		

		The hardware and software supplied shall be capable of supporting training of new users without impacting production operations or the integrity of the system's identification records databases		
2.	**TECHNICAL KNOWLEDGE TRANSFER**	Bidder MUST submit a Proposal containing delivery methodology in the following requirements:		
	Relevance of training program	The successful bidder shall be required to set up a sandbox environment for technical testing and training		
		The successful bidder shall conduct full technical Knowledge transfer for Commission staff covering, but not limited to, the following areas to ensure full operational control of the supplied solution.		
		Bidder MUST submit a Proposal containing delivery methodology in the following requirements		
		System installation of BVR, EVI and RTS for both front-end and back-end functions		
		System configuration of BVR, EVI and RTS Covering applications, Databases and operating system		
		System integration processes through either import, export or scripting		
		Data validation, verification and quality control processes		
		Security configurations and controls for BVR, EVI and RTS applications and databases		
		Network configurations for VR, EVI and RTS		
		System administration and monitoring tools for BVR, EVI and RTS		
		System support and troubleshooting tools of BVR, EVI and RTS		
		Report extraction and generation tools for BVR, EVI and RTS		
		Business intelligence for report generation		
		Detailed plan for handover of hardware firmware, drivers, Operating System keys and SDKs.		
		Bidder Commitment for full knowledge transfer. Failure to deliver full knowledge transfer by the vendor will be considered breach of obligation and Commission shall be at liberty to take any action that may be deemed necessary		
	Qualifications of experts and trainers	**Team Leader**		
		The project manager MUST have a minimum of master's degree in computer science or IT		
		The project manager MUST have a minimum of bachelor's degree in computer science or IT		

		Project Manager must provide a globally accepted professional certification in project management		
		Project Manager should have minimum Ten (10) years' experience in the implementation of National Biometric Recognition systems with elections bodies.		
		Project Team Members: Project implementation team members should have a minimum degree in Computer science or Information Technology		

iii) **Participation by Kenya citizens among proposed Key Experts**

TECHNICAL SPECIFICATION	**REQUIREMENTS**	**COMPLIANCE**
Support and Maintenance	The bidder should provide a detailed support and maintenance plan supported through a local Kenya Office	
Local Representation	The bidder must show proof of ICT technical support staff with a local registered office in the country. In reference to the local registered office, the bidder shall provide the following information: 1. CVs of the senior staff 2. A plan on how to ensure that 75% employment is for Kenyan Citizens	

FINANCIAL EVALUATION

ITT 46.1(b)	Award Criteria	The Contract will be awarded to the successful tenderer whose tender has been determined to; i) • Be substantially responsive to the tender document; • Offer the lowest evaluated cost to the Procuring Entity for the supply of the goods and services. ii) Substantially meet the qualification criteria applicable for the Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the Integrated Elections Management System (IEMS), Hardware Equipment and Accessories

Tenderers who score less than the required pass will be automatically disqualified. Tenderers who pass the technical evaluation will be evaluated further.

5 Tender Evaluation (ITT 35.5)

Price evaluation: in addition to the criteria listed in ITT 35.5 (a)–(e) the following criteria shall apply:

i) **Time Schedule**: time to complete the Information System from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities is: No credit will be given for earlier completion. Tenders offering a completion date beyond the maximum designated period shall be rejected**.**

ii) **Alternative Technical Solutions for specified parts of the Works, if permitted** under ITT 13.4, will be evaluated as follows:_____

iii) **Other specific additional criteria- i**f permitted under ITT 36.5 (f) **t**he relevant evaluation method, if any, shall be as follows:

_____

_____

iv) **Recurrent Costs** - since the operation and maintenance of the system being procured form a major part of the implementation, the resulting recurrent costs will be evaluated according to the principles given here after, including the cost of recurrent cost items for the initial period of operation stated below, based on prices furnished by each Tenderer in Price Schedule Nos. 3.3 and 3.5. The recurrent cost factors for calculation of the implementation schedule are:

i) Number of years for implementation

ii) Hardware maintenance

iii) Software licenses and updates

iv) Technical services

v) Telecommunication services, and

vi) Other services (if any).

v) Recurrent cost items for post- warranty service period if subject to evaluation shall be included in the main contractor a separate contract signed together with the main contract. Such costs shall be added to the Tender price for evaluation.

6 Alternative Tenders (ITT13.1)

An alternative if permitted under ITT 13.1, will be evaluated as follows:

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2- Procuring Entity's requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

7 Apply Margin of Preference

7.1 If the TDS so specifies, the Procuring Entity will grant a margin of preference of fifteen percent (15%) to be loaded on evaluated prices of the foreign tenderers, where the percentage of shareholding of Kenyan citizens is less than fifty-one percent (51%).

7.2 Contractors for such preference shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for a margin of preference.

7.3 After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into the following groups:

i) Group A: tenders offered by Kenyan Contractors and other Tenderers where Kenyan citizens hold shares of over fifty one percent (51%).

ii) Group B: tenders offered by foreign Contractors and other Tenderers where Kenyan citizens hold shares of less than fifty one percent (51%).

7.4 All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, at tender from Group A is the lowest, it shall be selected for the award. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 3.1 of the respective tender price, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group Band the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group B based on the first evaluation price shall be selected.

8 Post qualification and Contract ward (ITT 39), more specifically,

a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.

b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.

i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings

ii) Minimum average annual construction turnover of Kenya Shillings _____*[insert amount]*, equivalent calculated as total certified payments received for contracts in progress and/ or completed within the last ____*[insert of year]* years.

iii) At least _____(*insert number)* of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings
_____equivalent.

iv) Contractor's Representative and Key Personnel, which are specified as _____
_____

v) Contractors' key equipment listed on the table "Contractor's Equipment" below and more specifically listed as *[specify requirements for each lot as applicable]* _____
_____
_____

iv) Other conditions depending on their seriousness.

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

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

b) Pending Litigation

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

c) Litigation History

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

2 QUALIFICATION FORM

Item No.	*Qualification Subject*	*Qualification Requirement to be met*	*Document To be Completed by Tenderer*	*For Procuring Entity's Use (Qualification met or Not Met)*
1	2.1.1 Nationality	Nationality in accordance with ITT 4.5.	Form ELI –2.1.1 and 2.1.2, with attachments	
2	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14.	Form of Tender	
3	2.1.2 Conflict of Interest	No- conflicts of interests as described in ITT 4.3.	Form of Tender	
4	2.1.3 Country Ineligibility	Not having been declared ineligible by the PPRA as described in ITT 4.6.	Form of Tender	
5	2.1.4 State owned Entity of the Procuring Entity country	Compliance with conditions of ITT 4.7	Form ELI –2.1.1 and 2.1.2, with attachments	
6	2.1.5 United Nations resolution or Kenya law	Not having been excluded as a result of prohibition in Kenya laws or official regulations against commercial relations with the Tenderer's country, or by an act of compliance with UN Security Council resolution, both in accordance with ITT 4.8	Form of Tender	

Item No.	*Qualification Subject*	*Qualification Requirement to be met*	*Document To be Completed by Tenderer*	*For Procuring Entity's Use (Qualification met or Not Met)*
7	History of non-performing contracts	Non-performance of a contract[1] did not occur as a result of Tenderer's default since 1st January *[insert year]*.	Form CON - 2	
8	Suspension	Not under suspension based on execution of a Tender Securing Declaration or Tender Securing Declaration pursuant to ITT 4.8 and ITT 20.10	Form of Tender	
9	Pending Litigation	Tenderer's financial position and prospective long-term profitability still sound according to criteria established in 2.3.1 below and assuming that all pending litigation will be resolved against the Tenderer.	Form CON – 2	
10	2.3.1 Historical Financial Performance	Submission of audited balance sheets or if not required by the law of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last ___[ ] years to demonstrate the current soundness of the Tenderers financial position and its prospective long-term profitability.	Form FIN – 2.3.1 with attachments	
11	2.3.2 Average Annual Turnover	Minimum average annual turnover of _____ Kenya Shillings equivalent, calculated as total certified payments received for contracts in progress or completed, within the last_____() years	Form FIN –2.3.2	

[1] Nonperformance, as decided by the Procuring Entity, shall include all contracts where (a) nonperformance was not challenged by the contractor, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the contractor. Nonperformance shall not include contracts where Procuring Entity decision was overruled by the dispute resolution mechanism. Nonperformance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the applicant have been exhausted.

Item No.	*Qualification Subject*	*Qualification Requirement to be met*	*Document To be Completed by Tenderer*	*For Procuring Entity's Use (Qualification met or Not Met)*
12	2.3.3 Financial Resources	The Tenderer must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet the following cash-flow requirement: Minimum of _ Kenya Shillings equivalent.	Form FIN –2.3.3	
13	2.4.1 General Experience	Experience under Information System contracts in the role of prime supplier, management contractor, JV member, or subcontractor for at least the last_____[___] years prior to the applications submission deadline.	Form EXP-2.4.1	
14	2.4.2 Specific Experience	Participation as a prime supplier, management contractor, JV[2] member, sub-contractor, in at least ____ (__) contracts within the last _____( ) years, each with a value of at least _____ (__), that have been successfully and substantially completed and that are similar to the proposed Information System. *[Specify minimum key requirements in terms of physical size, complexity, methods, technology and/or other characteristics from those described in Section VII, Procuring Entity's Requirements*	Form EXP 2.4.2	

10. Personnel

The Tenderer must demonstrate that it will have the personnel for the key positions that meet the following requirements:

No.	Position	Information System Experience *[Specify specific experience requirement for the key positions]*
1		
2		
3		
…		

The Tenderer shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Tendering Forms.

11. Subcontractors/vendors/manufacturers

Subcontractors/vendors/manufacturers for the following major items of supply or services must meet the following minimum criteria, herein listed for that item:

Item No.	Description of Item	Minimum Criteria to be met
1		
2		
3		
…		

Failure to comply with this requirement will result in rejection of the subcontractor/vendor.

In the case of a Tenderer who offers to supply and install major items of supply under the contract that the Tenderer did not manufacture or otherwise produce, the Tenderer shall provide the manufacturer's authorization, using the form provided in Section IV, showing that the Tenderer has been duly authorized by the manufacturer or producer of the related sub system or component to supply and install that item in Kenya. The Tenderer is responsible for ensuring that the manufacturer or producer complies with the requirements of ITT 4 and 5 and meets the minimum criteria listed above for that item.

SECTION IV - TENDERING FORMS

1. FORM OF TENDER

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

INSTRUCTIONS TO TENDERERS

i) All italicized text is to help the Tenderer in preparing this form.

ii) The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.

iii)Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.

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

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

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

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

a) **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with Instructions to Tenderers (ITT 8);

b) **Eligibility**: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4;

c) **Tender-Securing Declaration:** We have not been debarred by the Authority based on execution of a Tender-Securing Declaration or Tender Securing Declaration in Kenya in accordance with ITT 4.8;

d) **Conformity:** We offer to provide design, supply and installation services in conformity with the tendering document of the following: [*insert a brief description of the IS Design, Supply and Installation Services*];

e) **Tender Price:** The total price of our Tender, excluding any discounts offered in item (f) below is: *[Insert one of the options below as appropriate]*

[Option1, in case of one lot:] Total price is: [*insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies*];

Or

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

(f) **Discounts:** The discounts offered and the methodology for their application are:

i) The discounts offered are: [*Specify in detail each discount offered.*]

ii) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify in detail the method that shall be used to apply the discounts*];

g) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS ITT 19.1 (as amended if applicable) from the date fixed for the Tender submission deadline (specified in TDS ITT 23.1 (as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

h) **Performance Security:** If our Tender is accepted, we commit to obtain a Performance Security in accordance with the tendering document;

i) **One Tender per Tenderer:** We are not submitting any other Tender (s) as an individual Tenderer, and we are not participating in any other Tender (s) as a Joint Venture member, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 13;

j) **Suspension and Debarment**: We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA. Further, we are not in eligible under Laws of Kenya or official regulations or pursuant to a decision of the United Nations Security Council;

k) **State-owned enterprise or institution**: [*select the appropriate option and delete the other*] [*We are not a state- owned enterprise or institution*]/ [*We are a state-owned enterprise or institution but meet the requirements of ITT 4.7*];

l) **Commissions, gratuities and fees**: We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

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

m) **Binding Contract**: We understand that this Tender, together with your written acceptance thereof included in your Form of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

n) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive; and

o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

Name of the Tenderer: *[*insert complete name of person signing the Tender*]

p) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.

q) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from ***www.pppra.go.ke*** during the procurement process and the execution of any resulting contract.

r) **Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

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

i) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

ii) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.

iii) Self-Declaration of the Tenderer–to declare that we will, if awarded a contract, not engage in any form

of fraud and corruption.

iv) Declaration and commitment to the code of ethics for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya. Further, we confirm that we have read and understood the full content and scope of fraud and corruption as in formed in **"Appendix1-Fraud and Corruption**" attached to the Form of Tender.

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

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

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

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

(1) TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

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

a) Tenderer's details

	ITEM	**DESCRIPTION**
1	Name of the Procuring Entity	
2	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (*postal and physical addresses, email, and telephone number*) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (*postal and physical addresses, email, and telephone number*) of state which stock exchange	

General and Specific Details

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

Name in full_____Age_____

Nationality_____Country of Origin_____

Citizenship _____

c) **Partnership,** provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) **Registered Company,** provide the following details.

(i) Private or public Company _____

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

Nominal Kenya Shillings (Equivalent).....

Issued Kenya Shillings (Equivalent).....

(iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

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

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

If yes, provide details as follows.

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

ii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

f) Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name_____

Title orDesignation_____

_____ _____

(Signature) *(Date)*

1) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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

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

i). I have read and I understand the contents of this Certificate;

ii). I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;

iii). I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;

iv). For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:

a) Has been requested to submit a Tender in response to this request for tenders;

b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;

v). The Tenderer discloses that [check one of the following, as applicable]:

a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;

b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

vi). In particular, without limiting the generality of paragraphs (5) (a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

a) prices;

b) methods, factors or formulas used to calculate prices;

c) the intention or decision to submit, or not to submit, a tender; or

d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5) (b) above;

vii). In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5) (b) above;

viii). The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph(5)(b) above.

Name_____

Title_____

Date_____

_____

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

(3) SELF-DECLARATION FORMS

FORM SD1

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

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

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ……...…….. *(insert name of the Company)* who is a Bidder in respect of **Tender No.……** for……. *(insert tender title/description)* for……. *(insert name of the Procuring entity)* and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

……. ……. ……
(Title) (Signature) (Date)

Bidder Official Stamp

FORM SD2

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

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

1. THAT I am the Chief Executive /Managing Director/ Principal Officer/ Director of……..... .....…… *(insert name of the Company)* who is a Bidder in respect of **Tender No. ……..** for ……. *(insert tender title/description)* for …… *(insert name of the Procuring entity)* and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and /or employees and /or agents of……. *(insert name of the Procuring entity)* which is the procuring entity.

3. THAT the aforesaid Bidder, its servants and /or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/ or employees and/ or agents of……. *(name of the procuring entity).*

4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender

5. THAT what is deponed to here in above is true to the best of my knowledge information and belief.

……. ……. ……
(Title) (Signature) (Date)

Bidder Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized signatory…..…….

Sign…….....….…….....

Position…….....…….....……

Office address…….....……. Telephone…….

E-mail…….....……

Name of the Firm/Company…….....….…....

Date…….....…..

(Company Seal/ Rubber Stamp where applicable)

Witness

Name…….....

Sign…….....

Date…….....

4) APPENDIX 1 - FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

1.1 The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act, 2015 (the Act) and the Public Procurement and Asset Regulations, 2020 (the Regulations) and any other relevant Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

2. Requirements

2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

2.2 Section 66 of the Act describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below high light Kenya's policy of no tolerance for such practices and behavior:

i) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;

ii) Adperson referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;

iii) Without limiting the generality of the subsection (1) and (2), the person shall be: -

a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or

b) if a contract has already been entered into with the person, the contract shall be voidable;

iv) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;

v) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement: -
a) Shall not take part in the procurement proceedings;
b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and

c) shall not be a subcontractor for the tenderer to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

vi) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;

vii) If a person contravenes sub section (1) with respect to a conflict of interest described in sub section (5) (a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

2.2 In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

a) Defines broadly, for the purposes of the above provisions, the terms:
i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

v) "obstructive practice" is:

1) Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

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

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

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

c) Rejects a proposal for award[1] of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

d) Pursuant to the Act and the Regulations, the Procuring Entity may recommend to PPRA for sanctioning and debarment of a firm or individual, as applicable under the Act and the Regulations;

e) Requires that a clause be included in the tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect[2]all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

f) Pursuant to Section 62 of the Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/ will not engage in any corrupt or fraudulent practices.

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

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

PRICE SCHEDULE FORMS

Notes to Tenderers on working with the Price Schedules

1.1 General

The Price Schedules are divided into separate Schedules as follows:

a Grand Summary Cost Table

b Supply and Installation Cost Summary Table

c Recurrent Cost Summary Table

d Supply and Installation Cost Sub-Table (s)

e Recurrent Cost Sub-Tables (s)

f Country of Origin Code Table

[insert:]

1.2 The Schedules do not generally give a full description of the information technologies to be supplied, installed, and operationally accepted, or the Services to be performed under each item. However, it is assumed that Tenderers shall have read the Technical Requirements and other sections of these tendering documents to ascertain the full scope of the requirements associated with each item prior to filling in the rates and prices. The quoted rates and prices shall be deemed to cover the full scope of these Technical Requirements, as well as overhead and profit.

1.3 If Tenderers are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with the Instructions to Tenderers in the tendering documents prior to submitting their tender.

2. Pricing

2.1 Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be initialed by the Tenderer. As specified in the Tender Data Sheet, prices shall be fixed and firm for the duration of the Contract.

2.2 Tender prices shall be quoted in the manner indicated and, in the currencies, specified in ITT 18.1 and ITT 18.2. Prices must correspond to items of the scope and quality defined in the Technical Requirements or elsewhere in these tendering documents.

2.3 The Tenderer must exercise great care in preparing its calculations, since there is no opportunity to correct errors once the deadline for submission of tenders has passed. A single error in specifying a unit price can therefore change a Tenderer's overall total tender price substantially, make the tender noncompetitive, or subject the Tenderer to possible loss. The Procuring Entity will correct any arithmetic error in accordance with the provisions of ITT 32.

2.4 Payments will be made to the Supplier in the currency or currencies indicated under each respective item. As specified in ITT18.2, no more than two foreign currencies may be used.

1. Grand Summary Cost Table

		*[insert: **Kenya shillings]** **Price**	*[insert: **Foreign Currency A]** **Price**	*[insert: **Foreign Currency B]** **Price**
1.	Supply and Installation Costs (from Supply and Installation Cost Summary Table)			
2.	Recurrent Costs (from Recurrent Cost Summary Table)			
3.	Grand Totals (to Tender Submission Form)			

Name of Tenderer: _____

_____ Date _____

Authorized Signature of Tenderer:

2. Supply and Installation Cost SummaryTable

Costs MUST reflect prices and rates quoted in accordance with ITT17 and 18

Line Item No.	**Subsystem / Item**	**Supply and Installation Cost Sub-Table No.**	*[insert: **Kenya shillings]** Price	*[insert: **Local Currency]** Price	*[insert: **Foreign Currency A]** Price
1	Project Plan	- -			
2	Subsystem 1				
SUBTOTALS					
TOTAL (To Grand Summary Table)					

Note: - indicates not applicable. "Indicates repetition of table entry above. Refer to the relevant Supply and Installation Cost Sub-Table for the specific components that constitute each Subsystem or line item in this summary table

Name of Tenderer:_____

_____Date_____

Authorized Signature of Tenderer:

3. Recurrent Cost Summary Table

Costs MUST reflect prices and rates quoted in accordance with ITT 17 and ITT18.

Line Item No.	**Subsystem / Item**	**Recurrent Cost Sub-Table No.**	***[insert: Kenya shilling] Price***	***[insert: Foreign Currency A] Price***	***[insert: Foreign Currency B] Price***
	Subtotals (to Grand Summary Table)				

Note: Refer to the relevant Recurrent Cost Sub-Tables for the specific components that constitute the Sub system or line item in this summary table.

Name of Tenderer:_____

Date_____

Authorized Signature of Tenderer:_____

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4. Supply and Installation Cost Sub-Table *[insert: identifying number]*

Line-item number: [*specify:* ***relevant line-item number from the Supply and Installation Cost Summary Table*** *(e.g., 1.1)]*

Prices, rates, and subtotals MUST be quoted in accordance with ITT 17 and ITT18.

				Unit Prices / Rates				**Total Prices**			
				Supplied Locally	**Supplied from outside Kenya**			**Supplied Locally**	**Supplied from outside Kenya**		
Compo-nent No.	**Component Description**	**Country of Origin Code**	**Quan-tity**	***[insert: local currency]***	***[insert: local currency]***	***[insert: foreign currency A]***	***[insert foreign currency B]***	***[insert: local currency]***	***[insert: local currency]***	***[insert: foreign currency A]***	***[insert: foreign currency B]***
X.1	____	- -	- -	- -	- -	- -	- -				
Subtotals (to *[insert:* ***line item****]* of Supply and Installation Cost Summary Table)											

Note: - - indicates not applicable

Name of Tenderer: _____

_____Date_____

Authorized Signature of Tenderer:

5. Recurrent Cost Sub-Table [*insert: identifying number] –Warranty Period*

Lot number: [*if a multi-lot procurement, insert:* ***lot number, otherwise*** *state "****single lot procurement"]*** Line item number**: [***specify:* ***relevant line item number from the Recurrent Cost Summary Table–*** *(e.g., y.1)]* Currency:

[*specify:* ***the currency of the Recurrent Costs in which the costs expressed in this Sub-Table are expressed****]***

[As necessary for operation of the System, specify: ***the detailed components and quantities in the Sub-Table below for the line item specified above, modifying the sample components and sample table entries as needed.*** *Repeat the Sub-Table as needed to cover each and every line item in the Recurrent Cost Summary Table that requires elaboration.]*

Costs MUST reflect prices and rates quoted in accordance with ITT 17 and ITT18.

		Maximum all-inclusive costs (for costs in *[insert: currency]*)						
1.	Hardware Maintenance	Incl. in Warranty	Incl. in Warranty	Incl. in Warranty				
2.	Software Licenses & Updates	Incl. in Warranty						
2.1	System and General-Purpose Software	Incl. in Warranty						
2.2	Application, Standard and Custom Software	Incl. in Warranty						
3.	Technical Services							
3.1	Sr. Systems Analyst							
3.2	Sr. Programmer							
3.3	Sr. Network Specialist, …. etc.							
4.	Telecommunications costs [to be detailed]							
5.	[Identify other recurrent costs as may apply]							
	Annual Subtotals:							- -
Cumulative Subtotal (to *[insert:* ***currency]*** entry for *[insert:* ***line item***] in the Recurrent Cost Summary Table)								

Name of Tenderer:_____ Date_____

Authorized Signature of Tenderer: _____

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6. Country of Origin Code Table

Country of Origin	Country Code	Country of Origin	Country Code	Country of Origin	Country Code

QUALIFICATION FORMS

1. FOREIGN TENDERERS 40% RULE

Pursuant to ITT 4.11, a foreign tenderer must complete this form to demonstrate that the tender fulfils this condition.

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT		xxxxx	
	PERCENTAGE OF CONTRACT PRICE		xxxxxx	

2. Form ELI-1 Tenderer Information Form

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

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

ITT No.: .....*[insert number of Tendering process]*

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

1. Tenderer's Name [*insert Tenderer's legal name]*
2. In case of JV, legal name of each member: *[insert legal name of each member in JV]*
3. Tenderer's actual or intended country of registration: *[insert actual or intended country of registration]*
4. Tenderer's year of registration: *[insert Tenderer's year of registration]*
5. Tenderer's Address in country of registration: *[insert Tenderer's legal address in country of registration]*
6. Tenderer's Authorized Representative Information Name: *[insert Authorized Representative's name]* Address: *[insert Authorized Representative's Address]* Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]* Email Address: *[insert Authorized Representative's email address]*
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4. ☐ In case of JV, Form of intent to form JV or JV agreement, in accordance with ITT 4.1. ☐ In case of state-owned enterprise or institution, in accordance with ITT 4.6 documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the Procuring Entity ☐ Included are the organizational chart and a list of Board of Directors.

3. Form ELI-1 Tenderer's JV Members Information Form

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

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

ITT No.: .....*[insert number of Tendering process]*

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

alternative] Page_____of_____pages

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

4. Form CON–1 Historical Contract Non-Performance and Pending Litigation.

In case a pre-qualification process was conducted this form should be used only if the information submitted at the time of pre-qualification requires updating

Tenderer's Legal Name:_____ Date:_____

JV member Legal Name: _____

ITT No.: _____

Age of_____ pages

Non-Performing Contracts in accordance with Section III, Evaluation and Qualification Criteria			
Contract non-performance did not occur during the stipulated period, in accordance with Sub- Factor 2.2.1 of Section III, Evaluation Criteria			
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
No pending litigation in accordance with Sub-Factor 2.2.3 of Section III, Evaluation Criteria Pending litigation in accordance with Sub-Factor 2.2.3 of Section III, Evaluation Criteria, as indicated below			
Year	Outcome as Percent of Total Assets	Contract Identification	Total Contract Amount (current value, US$ equivalent)
_____	_____	Contract Identification: Name of Procuring Entity: Address of Procuring Entity: Matter in dispute:	_____
_____	_____	Contract Identification: Name of Procuring Entity: Address of Procuring Entity: Matter in dispute:	_____

5. Form EXP - 1 Experience – General Experience

Tenderer's Legal Name:_____ Date:_____

JV Member Legal Name:_____ ITT No.: _____

Page_____ of_____ pages

Starting Month / Year	Ending Month / Year	Years*	Contract Identification	Role of Tenderer
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____
_____	_____		Contract name: Brief Description of the Information System performed by the Tenderer: Name of Procuring Entity: Address:	_____

*List calendar year for years with contracts with at least nine (9) months activity per year starting with the earliest year.

6. Form EXP – 2 Specific Experience

Tenderer's Legal Name: _____ Date: _____
JV Member Legal Name: _____ ITT No.: _____

Page _____ of _____ pages

Similar Contract Number: ___ of ___ required.	**Information**		
Contract Identification	_____		
Award date Completion date	_____ _____		
Role in Contract	□ Prime Supplier	□ Management Contractor	□ Subcontractor
Total contract amount	_____		US$_____ _
If member in a JV or subcontractor, specify participation of total contract amount	_____%	_____	US$_____
Procuring Entity's Name:	_____		
Address: Telephone/fax number: E-mail:	_____ _____ _____ _____		

7. Form EXP – 2 (cont.) Specific Experience (cont.)

Tenderer's Legal Name: _____ Page _____ of _____ pages
JV Member Legal Name: _____

Similar Contract No. __ [insert specific number] of [total number of contracts] ___ required	**Information**
Description of the similarity in accordance with Sub-Factor 2.4.2 of Section III:	
Amount	_____
Physical size	_____
Complexity	_____
Methods/Technology	_____
Key Activities	_____

8. Form CCC-1 Summary Sheet: Current Contract Commitments/ Work in Progress

Name of Tenderer or partner of a Joint Venture.

Tenderers and each partner to a Joint Venture tender should provide information on their current commitments on all contracts that have been awarded, or for which a Form of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued

Name of contract	**Procuring Entity, contact address/tel./fax**	**Value of outstanding Information System (current US$ equivalent)**	**Estimated completio date**	**Average monthly invoicin over last six months (US$/month)**
1.				
2.				
3.				
4.				
5.				
etc.				

9. Form FIN – 1 Financial Situation

Historical Financial Performance

Tenderer's Legal Name: _____Date: _____

JV Member Legal Name: _____ITT No._____

Page _____ of _____ pages

To be completed by the Tenderer and, if JV, by each member

Financial information in US$ equivalent	Historic information for previous _____ (__) years (US$ equivalent in 000s)						
	Year 1	Year 2	Year 3	Year …	Year n	Avg.	Avg. Ratio
Information from Balance Sheet							
Total Assets (TA)							
Total Liabilities (TL)							
Net Worth (NW)							
Current Assets (CA)							
Current Liabilities (CL)							
Information from Income Statement							
Total Revenue (TR)							
Profits Before Taxes (PBT)							

Attached are copies of financial statements (balance sheets, including all related notes, and income statements) for the years required above complying with the following conditions:

a) Must reflect the financial situation of the Tenderer or member to a JV, and not sister or parent companies.

b) Historic financial statements must be audited by a certified accountant.

c) Historic financial statements must be complete, including all notes to the financial statements.

d) Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

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10. Form FIN –2 Average Annual Turnover

Tenderer's Legal Name: _____ Date: _____

JV Member Legal Name: _____ ITT No.: _____

Page _____ of _____ pages

Annual turnover data (applicable activities only)		
Year	Amount and Currency	US$ equivalent
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
*Average Annual Turnover	_____	_____

*Average annual turnover calculated as total certified payments received for work in progress or completed, divided by the number of years specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.2.

11. Form F-3 Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total cash flow demands of the subject contract or contracts as indicated in Section III, Evaluation and Qualification Criteria.

Source of financing	**Amount (US$ equivalent)**
1.	
2.	
3.	
4.	

12. Personnel Capabilities

i) Key Personnel

Name of Tenderer or partner of a Joint Venture

Tenderers should provide the names and details of the suitably qualified Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

1.	**Title of position:** ...	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
2.	**Title of position: …**	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
3.	**Title of position:** ...	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
4.	**Title of position:**	
	Name of candidate	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
6...	**Title of position:**	
	Name of candidate	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]

	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]

ii) Candidate Summary

Position		**Candidate** □ Prime □ Alternate
Candidate information	Name of candidate	Date of birth
	Professional qualifications	
Present employment	Name of Employer	
	Address of Employer	
	Telephone	Contact (manager / personnel officer)
	Fax	Email
	Job title of candidate	Years with present Employer

Summarize professional experience over the last twenty years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	**To**	**Company/Project/ Position/Relevant technical and management experience**

iii) **Technical Capabilities**

Tenderer shall provide adequate information to demonstrate clearly that it has the technical capability to meet the requirements for the Information System. With this form, the Tenderer should summarize important certifications, proprietary methodologies, and/or specialized technologies that the Tenderer proposes to utilize in the execution of the Contract or Contracts.

(iv) Manufacturer's Authorization

Note: This authorization should be written on the Form head of the Manufacturer and be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.

Invitation for Tenders Title and No.:_____[*Procuring Entity insert: **ITT Title and Number***]

To:_____[*Procuring Entity insert: **Procuring Entity's Officer to receive the Manufacture's Authorization***]

WHEREAS *[insert: **Name of Manufacturer**]* who are official producers of_____*[insert: **items of supply by Manufacturer**]* and having production facilities at_____*[insert: **address of Manufacturer**]* do here by authorize_____*[insert: **name of Tenderer or Joint Venture**]* located at_____*[insert: **address of Tenderer or Joint Venture**]* (hereinafter, the "Tenderer") to submit a tender and subsequently negotiate and sign a Contract with you for resale of the following Products produced by us:

We hereby confirm that, in case the tendering results in a Contract between you and the Tenderer, the above-listed products will come with our full standard warranty.

Name *[insert: **Name of Officer**]* in the capacity of *[insert: **Title of Officer]*** Signed_____

Duly authorized to sign the authorization for and on behalf of:_____*[insert: **Name of Manufacturer**]*

Dated this_____*[insert: **ordinal**]* day of _____ [*insert: **month**], [insert: **year**]. [add Corporate Seal*

(where appropriate)]

(v) Subcontractor's Agreement

Note: This agreement should be written on the Form head of the Subcontractor and be signed by a person with the proper authority to sign documents that are binding on the Subcontractor.

Invitation for Tenders Title and No.:_____[*Procuring Entity insert: **ITT Title and Number**]*

To:_____[*Procuring Entity insert: **Procuring Entity's Officer to receive the Subcontractor's Agreement]***

WHERE AS *[insert: **Name of Subcontractor**]*, having head offices at_____*[insert: **address of Subcontractor**]*, have been informed by_____*[insert: **name of Tenderer or Joint Venture**] located* at _____*[insert: **address of Tenderer or Joint Venture**]* (here in after, the "Tenderer") that it will submit a tender in which_____*[insert: **Name of Subcontractor**]* will provide [*insert: **items of supply or services provided by the Subcontractor***]. We hereby commit to provide the above-named items, in the instance that the Tenderer is awarded the Contract.

Name *[insert: **Name of Officer**]*in the capacity of_____*[insert: **Title of Officer]***

Signed_____ Duly authorized to sign the authorization for and on

behalf of:_____*[insert: **Name of Subcontractor**]*

Dated this_____*[insert: **ordinal**]* day of_____[*insert: **month***], _____ *[insert: **year***].

[add Corporate Seal (where appropriate)]

vi) List of Proposed Subcontractors

	Item	**Proposed Subcontractor**	**Place of Registration & Qualifications**

13. Intellectual Property Forms

Notes to Tenderers on working with the Intellectual Property

Forms

In accordance with ITT 11.1(j), Tenderers must submit, as part of their tenders, lists of all the Software included in the tender assigned to one of the following categories: (A) System, General-Purpose, or Application Software; or (B) Standard or Custom Software. Tenderers must also submit a list of all Custom Materials. These categorizations

are needed to support the Intellectual Property in the GCC and SCC.

i) Software List

	(select one per item)			(select one per item)	
Software Item	System Software	General-Purpose Software	Application Software	Standard Software	Custom Software

ii) List of Custom Materials

Custom Materials

14. Conformance of Information System Materials

I) Format of the Technical Tender

In accordance with ITT 16.2, the documentary evidence of conformity of the Information System to the tendering documents includes (but is not restricted to):

a) The Tenderer's Preliminary Project Plan, including, but not restricted, to the topics specified in the TDS ITT 16.2. The Preliminary Project Plan should also state the Tenderer's assessment of the major responsibilities of the Procuring Entity and any other involved third parties in System supply and installation, as well as the Tenderer's proposed means for coordinating activities by each of the involved parties to avoid delays or interference.

b) A written confirmation by the Tenderer that, if awarded the Contract, it shall accept responsibility for successful integration and interoperability of all the proposed Information Technologies included in the System, as further specified in the Technical Requirements.

c) Item-by-Item Commentary on the Technical Requirements demonstrating the substantial responsiveness of the overall design of the System and the individual Information Technologies, Goods, and Services offered to those Technical Requirements.

In demonstrating the responsiveness of its tender, the Tenderer must use the Technical Responsiveness Checklist (Format). Failure to do so increases significantly the risk that the Tenderer's Technical Tender will be declared technically non-responsive. Among other things, the checklist should contain explicit cross-references to the relevant pages in supporting materials included the Tenderer's Technical Tender.

Note: The Technical Requirements are voiced as requirements of the *Supplier* and/or the *System*. The Tenderer's response must provide clear evidence for the evaluation team to assess the credibility of the response. A response of "yes" or "will do" is unlikely to convey the credibility of the response. The Tenderer should indicate *that*–and to the greatest extent practical–*how* the Tenderer would comply with the requirements if awarded the contract. Whenever the technical requirements relate to feature(s) of existing products (e.g., hardware or software), the features should be described and the relevant product literature referenced. When the technical requirements relate to professional services (e.g., analysis, configuration, integration, training, etc.) some effort should be expended to describe how they would be rendered – not just a commitment to perform the [cut-and-paste] requirement. Whenever a technical requirement is for the Supplier to provide certifications (e.g., ISO9001), copies of these certifications must be included in the Technical Tender.

Note: The Manufacture's Authorizations (and any Subcontractor Agreements) are to be included in Attachment 2 (Tenderer Qualifications), in accordance with and ITT 15.

Note: As a matter of practice, the contract cannot be awarded to a Tenderer whose Technical Tender deviates (materially) from the Technical Requirements – *on any Technical Requirement*. Such deviations include omissions (e.g., non-responses) and responses that do not meet or exceed the requirement. Extreme care must be exercised in the preparation and presentation of the responses to all the Technical Requirements.

d) Supporting materials to underpin the Item-by-item Commentary on the Technical Requirements (e.g., product literature, white-papers, narrative descriptions of technical approaches to be employed, etc.). In the interest of timely tender evaluation and contract award, Tenderers are encouraged not to overload the supporting materials with documents that do not directly address the Procuring Entity's requirements.

e) Any separate and enforceable contract(s) for Recurrent Cost items which the TDSITT17.2 required Tenderers to tender.

Note: To facilitate tender evaluation and contract award, Tenderers encouraged to provide electronic copies of their Technical Tender–preferably in a format that the evaluation team can extract text from to facilitate the tender clarification process and to facilitate the preparation of the Tender Evaluation Report.

ii) Technical Responsiveness Checklist (Format)

Tech. Require. No. _	**Technical Requirement:** ***[insert: abbreviated description of Requirement]***
Tenderer's technical reasons supporting compliance:	
Tenderer's cross references to supporting information in Technical Tender:	

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Beneficiary:_____

Request forTenders No:

_____

Date:_____

TENDER GUARANTEE No.:_____

Guarantor: _____

1. We have been informed that_____(here inafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here inafter called" the Tender") for the execution of_____ under Request for Tenders No._____(“the ITT”).

2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.

3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

(a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Applicant; or

b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor before that date.

_____

[signature(s)]

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

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas …… [*Name of the tenderer]* (hereinafter called "the tenderer") has submitted its tender dated …… [*Date of submission of tender]* for the …… *[Name and/or description of the tender]* (hereinafter called "the Tender") for the execution of under Request for Tenders No. _____ ("the ITT").

2. KNOW ALL PEOPLE by these presents that WE …… of …… [**Name of Insurance Company**] having our registered office at …… (hereinafter called "the Guarantor"), are bound unto …….. [*Name of Procuring Entity*] (hereinafter called "the Procuring Entity") in the sum of …… (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

   Sealed with the Common Seal of the said Guarantor this ___day of _____ 20 __.

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

   a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Principal; or

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

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

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii)twenty-eight days after the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

_____	_____
[Date]	*[Signature of the Guarantor]*
_____	_____
[Witness]	*[Seal]*

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

TENDER - SECURING DECLARATION FORM {r 46 and155(2)}

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

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

Tender No.: ..... *[insert number of tendering process]*

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

1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.

2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation (s) under the bid conditions, because we–(a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.

3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
   a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
   b) thirty days after the expiration of our Tender.

4. I/We understand that if I am/ we are/ in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: …….…….....

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

Name: …….....

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

on……. day of…….…… [Insert date of signing]

Seal or stamp

PART 2 – PROCURING ENTITY'S REQUIREMENTS

SECTION V - REQUIREMENTS OF THE INFORMATION SYSTEM

(INCLUDING TECHNICAL REQUIREMENTS, IMPLEMENTATION SCHEDULE, SYSTEM INVENTORY TABLES, BACKGROUND AND INFORMATIONAL MATERIALS)

1. Technical Requirements

Notes on preparing the Technical Requirements
The Technical Requirements–in combination with the Implementation Schedule and the supporting System Inventory Tables – state the Supplier's obligations to design, supply and install the Information System and, as such, should be "voiced" to the Supplier (i.e., "The System MUST…" "The Supplier MUST…"). They form the contractual basis for the Procuring Entity-Supplier interactions on technical matters (in combination with refinements introduced through the Supplier's tender, the Project Plan, and any Change Orders).

The Technical Requirements also must include all the technical details that Tenderers will need to prepare realistic, responsive, and competitive tenders (i.e., covering all their obligations under the Contract if so awarded). However, matters addressed to the Tenderer's (i.e., before contract award) generally belong in the Format of the Technical Tender Section 8 of Part 1.

Often Technical Requirements are based on either consultant's project proposals (voiced to the Procuring Entity's management) or tenders from previous procurements (voiced to the Procuring Entity). In both instances, care needs to be taken in converting these materials into Technical Requirements (voiced to the Supplier). Otherwise, substantial ambiguity will be introduced in to the Technical Requirements from, among other things, "aspirational" text suggesting the benefits (to the Procuring Entity) which are often not obligations that the Supplier can deliver on or be held to deliver upon. Tender based language will often include "sales pitches", such as "expandability up to sixteen processors", whereas the Technical Requirements need to be stated as threshold values to be cleared by the Supplier (e.g., "expandability to at least sixteen processors").

Any sustainable procurement technical requirements shall be clearly specified. The sustainable procurement requirements may be specified to enable evaluation of such a requirement on a pass/ fail basis and/orated criterion (point system), as appropriate.

To the greatest extent possible, the Technical Requirements should be expressed in terms of the Procuring Entity's business activities, rather than a technological design. This leaves it up to the market to determine what specific Information Technologies can best satisfy these business needs. This is particularly relevant where the Information System will embody complex business logic in the form of application software.

Even in the case of a relatively straight-forward Information System, where the business need scan be clearly linked to technological and methodological requirements known in advance of any tendering, the requirements must still be vendor-neutral and admit the widest possible range of technical responses.

Accordingly, references to brand names, catalog numbers, or other details that limit the source of any item or component to a specific manufacturer should be avoided. Where such references are unavoidable, the words "or substantially equivalent" should be added to permit Tenderers to tender equivalent or superior technologies. (The Procuring Entity will need to be ready to indicate how this equivalence will be assessed.) Only in the most exceptional circumstances may Tenderers be required to offer brand-name items and the equivalency clause be omitted. Such brand-name components are the absolute fewest possible and each component has been explicitly identified in the Tender Data Sheet for ITT 16.3.

Similarly, where national standards or codes of practice are specified, the Procuring Entity should include a statement that other national or international standards "that are substantially equivalent" will also be acceptable.

To help ensure comparable tenders and ease Contract execution, the Procuring Entity's requirements must be stated as clearly as possible, with minimum room for differing interpretations. Thus, wherever possible, technical requirements should include definitive characteristics and quantifiable measures. If technical characteristics in a specific range, or above or below specific thresholds, are required, then these should be clearly specified. For example, the expandability of a server should be stated as "no less than four processors." Technical specifications that state only "four processors" create un necessary uncertainty for Tenderers regarding whether or not, for example, a server that could be expanded up to six process or boards would be technically responsive.

Quantitative technical specifications must, however, be employed with care. They can dictate technical architectures and, thus, be unnecessarily restrictive. For example, a quantitative requirement for the minimum width of the data path in a processor may be unnecessarily restrictive. Instead, a specification of a required level of

standard performance benchmark test is more appropriate, allowing different technical approaches to achieving the Procuring Entity's functional and performance objectives. In general, the Procuring Entity should try to use widely accepted direct measures of performance and functionality whenever possible and carefully review specifications for those that might dictate technical architectures.

It is important that the Technical Requirements clearly identify which are mandatory features (for which a tender's nonconformance might require rejection for non-responsiveness) and which are preferable features that can be included or excluded from a tender at the Tenderer's option. To enhance the clarity of the specifications, Procuring Entities are advised to use the word “MUST” (in bold capitals) in sentences describing mandatory requirements. A clear requirement numbering scheme is also essential.

The following presents a sample outline format for the Technical Requirements Section. This can and should be adapted to meet the Procuring Entity's needs for the specific Information System to be procured.

A. Acronyms Used in the Technical Requirements

i) Acronym Table

Note: Compile a table of organizational and technical acronyms used in the Requirements. This can be done, for example, by extending the following table.

	Term	**Explanation**
	Bps	bits per second
	Cps	characters per second
	DBMS	Database Management System
	DOS	Disk Operating System
	Dpi	dots per inch
	Ethernet	IEEE 802.3 Standard LAN protocol
	GB	Gigabyte
	Hz	Hertz (cycles per second)
	IEEE	Institute of Electrical and Electronics Engineers
	ISO	International Standards Organization
	KB	Kilobyte
	kVA	Kilovolt ampere
	LAN	Local area network
	Lpi	lines per inch
	Lpm	lines per minute
	MB	Megabyte
	MTBF	Mean time between failures
	NIC	Network interface card
	NOS	Network operating system
	ODBC	Open Database Connectivity
	OLE	Object Linking and Embedding
	OS	Operating system
	PCL	Printer Command Language
	Ppm	pages per minute
	PS	PostScript -- Adobe page description language
	RAID	Redundant array of inexpensive disks
	RAM	Random access memory

	Term	Explanation
	RISC	Reduced instruction-set computer
	SCSI	Small Computer System Interface
	SNMP	Simple Network Management Protocol
	SQL	Structured Query Language
	TCP/IP	Transmission Control Protocol / Internet Protocol
	V	Volt
	WLAN	Wireless LAN

B. Functional, Architectural and Performance Requirements

i) Legal and Regulatory Requirements to be met by the Information System

1.1 The Information System MUST comply with the following laws and regulations:

1) *[as appropriate, summarize:* ***each relevant legal code and regulations that govern the business processes and procedures that will be automated with the Information System****;]*

2) **Note**: If appropriate, prepare a sub section with the relevant legal codes and regulations to be included in the Background and Informational Materials and reference these materials.

ii) Business Function Requirements to be met by the Information System

2.1 The Information System MUST support the following business functions

1) *[describe, at the appropriate level of detail for the Information System being supplied and installed:* ***each specific business processes and procedures that will be automated by the Information System****.]*

2) ***Note:*** *These business process descriptions may be textual as well as presented in a formal system analysis formats (e.g., process model and data model, use-case model, entity-relation diagrams, swim-lane diagrams, etc.)*

As appropriate, prepare a subsection for the Background and Informational Materials with samples of existing standardized reports, data entry forms, data formats, data coding schemes, etc. which the Information System will need to implement; reference these materials.

iii) Architectural Requirements to be met by the Information System

(3.1) The Information System MUST be supplied and configured to implement the following architecture.

1) Software Architecture: *[specify:* ***features (use diagrams as appropriate)****]*.

2) Hardware Architecture: *[specify:* ***features (use diagrams as appropriate)****]*.

iv) Systems Administration and Management Functions Required to be met by the Information System

1) The Information System MUST provide for the following management, administration, and security features at the overall System level in an integrated fashion.

2) Installation, Configuration and Change Management: *[specify:* ***features****]*.

3) Operational Monitoring, Diagnostics, and Troubleshooting: *[specify:* ***features****]*.

4) User Administration and Access Control; User and Usage Monitoring and Audit Trails: [*specify:* ***features****]*

5) System and Information Security and Security Policies: [*specify:* ***features****]*

6) Back-up and Disaster- Recovery: [*specify:* ***features****]*

v) Performance Requirements of the Information System

5.1 The Information System MUST reach the following performance levels.

*1) [describe, at the appropriate level of detail for the particular Information System being supplied and installed: **each relevant throughput and/or response times for specific business processes and procedures automated by the System**; also describe: in business process terms, **the relevant conditions under which the System must achieve these performance standards** (e.g., the number of concurrent users, type of transactions, type and quantity of business data that the System must process in achieving these performance standards, etc.)]*

2) Note: Whenever feasible, business functions should be stated and used as the basis for performance specifications. Relying solely on technological requirements can in advertently restrict competition.

C. Service Specifications– Supply& Install Items

i) System Analysis, Design and Customization/ Development

(1) The Supplier MUST perform the following Analysis and Design activities using a formal system analysis/ development methodology with the following key activities and design deliverables.

*2) Detailed Analysis: [for example, specify: **System Design Document; System Requirements Specification; Interface Requirements Specification); Software/System Test Descriptions; Software/ System Test Plan**, etc.]*

*3) Physical Design: [for example, specify: **Software Design Description; Interface Design Document; Data base Design Document**; etc.]*

4)** Integrated System: [for example, specify: **User's Manual; Operations Manual; Source Code; CASE Files;** etc**.]

ii) Software Customization/ Development

(1) The Supplier MUST perform Software Customization / Development using a formal software development methodology with the following characteristics and/ or with the following technologies and/ or tools.

2)*[for example, describe: **Software Development Method** (e.g., Cascade, Rapid Application Development; **and/ or Open Standards** (e.g., Java, XML, etc.); **and/ or CASE tools**, etc.]*

iii) System Integration (to other existing systems)

1) The Supplier MUST perform the following Integration Services *[for example, describe:* **existing information systems** *(as appropriate, reference the relevant subsection of the Background and Informational Materials Section containing any detailed description of existing systems); and specify: **technical and functional level of integration with the Information System**.]*

(iv) Training and Training Materials

(4.1) The Supplier MUST provide the following Training Services and Materials.

*1) User: [for example, specify: **minimum curricula, modes of training, modes of testing, and training materials for: the introduction to computers, the operation of the relevant equipment incorporated in the System, as well as the operation of the Software applications incorporated in the System;** as appropriate, reference the relevant subsection in the Background and Informational Material Section containing any detailed information regarding the available training facilities; etc.]*

*2) Technical: [for example, specify: **minimum curricula, modes of training, modes of testing (e.g., certification levels), training materials and training locations for: the key technology and methodology components of the Information System**; etc.]*

*3) Management: [for example, specify: **minimum curricula, modes of training, modes of testing, training materials and training locations for: the familiarization with the functionality, technology and methodology components of the Information System, corporate management of information systems**; etc.]*

v) Data Conversion and Migration

1) The Supplier MUST provide services and tools to perform the following Data Conversion and Migration Services: [*for example, specify:* ***volume of data; type, structure, and media of data; timing of conversion; quality assurance and validation methods****; etc.]*

vi) Documentation Requirements

(6.1) The Supplier MUST prepare and provide the following Documentation.

1) End-User Documents: [*for example, specify:* ***type(s) of end-user documents; language; content; formats; quality control and revision management; medium; reproduction and distribution methods****; etc.]*

2) Technical Documents: *[for example, specify:* ***type(s) of technical documents; language; content; formats; quality control and revision management; medium; reproduction and distribution methods****; etc.]*

vii) Requirements of the Supplier's Technical Team

(7.1) The Supplier MUST maintain a technical team of the following roles and skill levels during the Supply and Installation Activities under the Contract:

1) Project Team Leader: *[for example, specify:* ***education/ certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

2) *[specify:* ***Business Area****]* Expert: *[for example, specify:* ***education/ certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

3) System Analyst: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

4) Database Expert: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

5) Programming Expert: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

6) System Administration / Security Expert: *[for example, specify:* ***education/ certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

7) Computer Hardware Expert: *[for example, specify:* ***education/ certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

8) Network and Communications Expert: *[for example, specify:* ***education/ certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

9) Training Expert: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

10) Documentation Specialist: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

11) …

D. Technology Specifications– Supply& Install Items

(i) General Technical Requirements

1) Language Support: All information technologies must provide support for the *[insert:* ***either national or business language(s) of the end-user(s)****]*. Specifically, all display technologies and software must support the ISO *[insert:* ***character set number****]* character set and perform sorting according to *[insert:* ***appropriate standard method****]*.

2) Electrical Power: All active (powered) equipment must operate on *[specify:* ***voltage range and frequency range****, e.g., 220v +/- 20v, 50Hz +/- 2Hz]*. All active equipment must include power plugs standard in *[insert: Procuring Entity's Country]*.

3) Environmental: Unless otherwise specified, all equipment must operate in environments of *[specify,* ***temperature, humidity, and dust conditions****, e.g., 10-30 degrees centigrade, 20-80 percent relative humidity, and 0-40 grams per cubic meter of dust]*.

(4) Safety:

4.1 Unless otherwise specified, all equipment must operate at noise levels no greater than *[insert: **maximum number**, e.g.,55]* decibels.

4.2 All electronic equipment that emits electromagnetic energy must be certified as meeting *[insert: **emission standard**, e.g., USFCC class B or END 55022 and END 50082-1],* or equivalent, emission standards.

ii) Computing Hardware Specifications

2.1 Processing Unit Type 1: *[specify: **name of processing unit and technical function** (e.g., Central Database Server)]:*

1) Processing unit performance: As configured for the tender, the processing unit MUST, at a minimum,

a) Achieve *[specify: **standard benchmark test or tests and minimum performance levels**, for example, "SPECCPU 2006 rating"]*
(Or, for PCs)
Achieve a minimum performance equal to a score of *[specify: **score**]* under the benchmark *[specify: **benchmark**, for example "Sylmar 2007 Rating"]*

b) Provide input-output performance, as follows *[specify: **minimum input-output performance levels** (e.g., data bus transfer rates; standard peripheral inter faces; minimum number of con current terminal sessions, etc.)]*

(2) Processor expandability: *[for example, specify: **minimum acceptable number of processors**; **minimum acceptable levels of performance**; **minimum acceptable degree of expandability for processors/ performance**, **relative to tender configuration**; **minimum acceptable number of internal Sub system expansions lots**; etc.,]*

(3) Process or memory and other storage: *[for example, specify: **main memory; cache memory; disk storage; tape storage; optical drives**; etc.]*

Note: If the upgrade requirements over the next few years for processing power, memory, etc., are reasonably well known at the time the tendering documents are to be issued, the Procuring Entity may wish to incorporate these requirements in the Recurrent Cost Table and possibly include them in the Contract Price. This will subject them to competition and provide away contractually to control future price increases. This approach reserves for the Procuring Entity the option of including upgrades in the Contract, even if upgrades are not needed in the end. An SCC needs to be included clarifying how upgrades will be treated in the final Contract.

(4) Processing unit fault tolerance: *[for example, specify: **error checking; failure detection, prediction, reporting, and management; redundant power supplies and other modules; "hot-swappable modules**"; etc.]*

(5) Processing unit management features: *[for example, specify: **features and supported standards; local and remote management**; etc.]*

(6) Processing unit input and output devices: *[for example, specify: **network interfaces and controllers; display; keyboard; mouse; bar-code, smart-card, and identification-card readers; modems; audio and video interfaces and devices**; etc.]*

(7) Other processing unit features: *[for example, specify: **power-saving features; battery life for portable equipment**; etc.]*

2.2 Processing Unit Type 2: *[specify: **name of processing unit and technical function** (e.g., General Purpose Work station)]:*

3.1.2.1 …

ii) Network and Communications Specifications

3.1 Local Area Network:

1) Equipment and software: *[for example, specify: as appropriate, for each type of equipment and software: **protocols supported; performance levels; expandability, fault tolerance, administration, management and security features**; etc.]*

2) Cabling: *[for example, specify: **cable type(s); topology(ies); cable protectors, channels and other installation standards (e.g., ANSI / EIA / TIA 598); cable labeling schemes, references to premises drawing**s; etc.]*

3.2 Wide-Area Network:

3) Equipment and software: *[for example, specify:* ***protocols supported; performance levels; expandability; fault tolerance; administration, management, and security features****; etc.]*

4) Telecommunications Services: *[for example, specify:* ***media; capacity; protocols supported; performance levels; expandability; fault tolerance; administration, management, and security features****; etc.]*

3.2 Other Communications Equipment: *[for example, specify:* ***modems; facsimile devices; modem and facsimile servers****, etc.]*

3.3 Video Conferencing/ Congress Equipment:

3.5. …

iii) Ancillary Hardware Specifications

1) Shared Data Storage Devices: *[specify:* ***disk; tape; optical storage devices, including capacities, interfaces, hardware-based administration/ diagnostics/ fail over****, etc.]:*

2) Shared Output and Input Devices:

General Requirements: Unless otherwise specified, all shared output and input devices must be capable of handling A4 standard sized paper.

Printers: *[for example, specify:* ***high-speed, high-quality printer; standard-speed, high-quality printer; high-speed, large-format (A3) printer; color, high-quality printer, video and output devices****; etc.]*

Scanners: *[for example, specify:* ***scanner resolution; paper-/ film-handling features; speed****; etc.]*

3) Power Conditioning Devices:

3.1 Uninterruptable Power Supplies: *[for example, specify:* ***output power delivery and duration capacity, power filtering capacity, battery features, interfaces, device management diagnostics and fail over features****, etc.]*

4) Specialized Furnishing/ Equipment:

4.1 Equipment Cabinets/ Racks: *[for example, specify:* ***size, capacity, physical access and access control, ventilation and environmental control features****, etc.]*

4.2 Environment Control Equipment: *[for example, specify:* ***air conditioning units; humidity control equipment; etc****.]*

4.3 Physical Access Control Equipment: *[for example, specify:* ***door entry controls; intrusion detection; video surveillance****, etc.]*

4.4 Logical Access Control Equipment: *[for example, specify:* ***secure identity tokens; token readers****, etc.]*

iv) Standard Software Specifications

5 System Software and System - Management Utilities:

1) Processing unit type 1: *[for example, specify:* ***operating system; back-up, optimization, anti-virus, and other utilities; systems administration, maintenance, and troubleshooting tools****; etc.]*

2) Processing unit type 2: *[for example, specify:* ***operating system; back-up, optimization, anti-virus, and other utilities; systems administration, maintenance, and troubleshooting tools****; etc.]*

3) Etc...

5.1 Networking and Communications Software: *[for example, specify:* ***protocols, media and equipment to be supported; network services, management and administration features; security and failure management features****; etc.]*

5.2 General-Purpose Software: *[for example, specify:* ***Office Automation Software; programming tools and libraries****; etc.]*

5.3 Database Software and Development Tools: *[for example, specify:* ***database and database management feature; development tools and environments****; etc.]*

5.4 Business Application Software: [*for example, specify:* ***specific business functions to be supported in native code; application management feature; customization options and tools****; etc.]*

v) Consumables

6.1 Printer Ink/ Toner–PrinterType1:

vi) Other Non-IT Goods

6.2 Work station Desks:

6.3 Photocopiers:

6.4 Specialized Mechanical Systems–Data center *[for example, specify:* ***raised floor system, electrical distribution subsystem****, etc.]*

E. Testing and Quality Assurance Requirements

(i) Inspections

1.1 Factory Inspections: [*if* any, *specify:* ***the items, criteria, and methods to be employed by the Procuring Entity, or its agent, during factory inspections of the Information Technologies and other Goods prior to their shipment to the site(s)****.]*

1.2 Inspections following delivery: [*if any, specify:* ***the items, criteria, and methods to be employed by the Procuring Entity, or its agent, upon delivery and unpacking of the Information Technologies and other Goods to the Site(s)****.]*

ii) Pre-commissioning Tests

2.1 In addition to the Supplier's standard check-out and set-up tests, the Supplier (with the assistance of the Procuring Entity) must perform the following tests on the System and its Sub systems before Installation will be deemed to have occurred and the Procuring Entity will issue the Installation Certificate (s) (pursuant to GCC Clause 26 and related SCC clauses).

2.2 [specify: Sub system1(as defined in the Site Table[s] attached to the Implementation Schedule) specify: ***tests, test conditions, success criteria****, etc.]*

2.3 [specify: Sub system2(as defined in the Site Table{s}) specify: ***tests, test conditions, success criteria****, etc.]*

2.4 the Entire System: Pre-commissioning Tests for the entire System are: *[specify:* ***tests, test conditions, success criteria****, etc.]*

iii) Operational Acceptance Tests

3.1 Pursuant to GCC Clause27 and related SCC clauses, the Procuring Entity (with the assistance of the Supplier) willperformthefollowingtestsontheSystemanditsSubsystemsfollowingInstallati on to determine whether the System and the Sub systems meet all the requirements mandated for Operational Acceptance.

3.2 [specify: Subsystem 1 (as defined in the Implementation Schedule) specify: ***tests, test conditions, success criteria****, etc.]*

3.3 [specify: Subsystem 2 (as defined in the Implementation Schedule) specify: ***tests, test conditions, success criteria****, etc.]*

3.4 the Entire System: Pre-commissioning Tests for the entire System are: *[specify:* ***tests, test conditions, success criteria****, etc.]*

Note: The complexity of the Operational Acceptance Testing needed will vary in accordance with the complexity of the System being procured. For simpler Information Systems Operational Acceptance Testing may simply consist of requiring a specified period of trouble-free System or Sub system operation under normal operating conditions. For more complex Systems, Operational Acceptance testing will require extensive, clearly defined tests under either production or mock-production conditions.

F. Service Specifications–Recurrent Cost Items

i) Warranty Defect Repair

1.1 The Supplier MUST provide the following services under the Contract or, as appropriate under separate contracts (as specified in the tendering documents).

1) Warranty Defect Repair Service: *[for example, specify:* ***coverage period; response time and problem-resolution performance standards; modes of service, such as on-site, on-call, or return to warehouse****; etc. (indicate how these may vary among hardware, software, network technologies, etc.)]*

2) ...

ii) Technical Support

2.1 The Supplier MUST provide the following services under the Contract or, as appropriate under separate contracts (as specified in the tendering documents).

1) User support / hot line: *[for example, specify:* ***coverage period; response time and problem resolution performance standards;*** *etc.]*

2) Technical Assistance: *[for example, specify:* ***categories of technical staff required; anticipated tasks and objectives; response-time performance standards****; etc. (indicate how these may vary among hardware, software, network technologies, etc.)]*

3) Post-Warranty Maintenance Services: *[for example, specify:* ***coverage period; response time and problem-resolution performance standards; modes of service, such as on-site, on-call, or return to warehouse****; etc. (indicate how these may vary among hardware, software, network technologies, etc.)]*

4) ....

iii) Requirements of the Supplier's Technical Team

3.1 The Supplier MUST provide a technical team to cover the Procuring Entity's anticipated Post-Operational Acceptance Technical Assistance Activities Requirements (e.g., modification of the Information System to comply with changing legislation and regulations) with the roles and skill levels that are specified below. The minimum expected quantities of inputs by the Supplier's technical support team are specified in the relevant System Inventory Tables for Recurrent Cost Items.

1) System Analyst: *[for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

2) Database Expert: [*for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*

3) Programming Expert: [*for example, specify:* ***education/certifications, years' experience in, demonstrated successful experience in,*** *etc.]*.

4) …

Note: The Technical Assistance Team specification may be used to develop tender prices for technical support Recurrent Costs. These may be included in the main Contract or be subject to separate contracts. In either regard, to obtain meaningful and comparable tender prices, the Procuring Entity will need to specify the roles of the technical support team members in this section and indicate the quantities of the corresponding inputs in the Systems Inventory Tables for Recurrent Cost items.

G. Implementation Schedule

Notes on preparing the Implementation Schedule *the Implementation Schedule summarize when and where Installation, and Operational Acceptance should take place for all Sub systems and/ or major components of the System, and for the overall System it self–as well as any other major Contract milestones.*

Note: *The delivery date is not presented in the Implementation Schedule. Under Incoterms 2010 for CIP, Delivery refers to the date when the Supplier delivers the goods to the first carrier at the port of embarkation, not to the arrival of the goods at the destination site. Delivery (shipment) date therefore varies according to the country of origin of the goods and the Supplier's chosen method of transport.*

The target dates need to be realistic and achievable in light of the capacity of both the average Supplier and the Procuring Entity to carry out their respective contract obligations. Also, the Procuring Entity must take care to ensure that the dates specified in the Schedule are consistent with any specified elsewhere in the tendering document, especially in the GCC/SCC (e.g., and/ or times specified for the submission and acceptance of the Agreed Project Plan). The work breakdown structure (deliverables) in the Implementation Schedule should be sufficiently detailed to facilitate careful management of the Contract - but not so detailed that it unnecessarily constrains tenderers from organizing the proposed work in the most efficient and effective manner.

To facilitate the tendering and the contract management processes, the Implementation Schedule, the System Inventory Tables and Price Schedules should be closely linked. In particular, the Implementation Schedule defines the major deliverable Subsystems. For each Subsystem there should be a corresponding System Inventory Table or Tables. These System Inventory Tables catalog the specific items (inputs) comprising the Sub system, as well as the quantities of each item required (for the supply and install cost items as well as their current cost items). For each System Inventory Table there should be a corresponding Price Schedule that closely mirrors the System Inventory Table. Careful development of these materials will greatly improve the changes of obtaining complete and comparable tenders (and ease the tender evaluation process) as well as improving the likelihood that the Procuring Entity's and Supplier's interactions during contract execution are closely orchestrated (thus easing the burden of contract management and improving the likelihood of successful implementation of the Information System).
The sample tables comprise:

a) An Implementation Schedule Table;
b) A Site Table(s); and
c) A Table of Holidays and other Non-Working Days.

The Procuring Entity should modify these tables, as required, to suit the particulars of the System (and Sub systems) to be supplied and installed. The sample text in the tables is illustrative only and should be modified or deleted as appropriate. The timings stated in the Implementation Schedule should be specified in weeks from Contract Effectiveness. This will ease the maintenance of the tendering documents during the preparation and tendering processes.

Where appropriate, the Implementation Schedule should indicate the deliverables against which Liquidated Damages maybe applied in the event of implementation delays arising from the actions of the Supplier (as governed by the SCC and GCC clause 28). These milestones should be kept to the essential minimum needed by the Procuring Entity to ensure contract discipline by the Supplier- but not so many that they unnecessarily strain the Procuring Entity-Supplier relationship upon which the successful implementation of the Information System will invariably depend.

The Site Table(s) catalog the physic allocation of the site(s) where the System is to be supplied, installed, and operated. The site(s) may consist of a number of branch offices in remote regions, different departments or offices in the same city, or a combination of these. The Procuring Entity must specify this information in sufficient detail so that Tenderers can accurately estimate costs related to:

a) Delivery and insurance;
b) Installation, including cabling and inter-building communications, etc.
c) Perform support services, such as warranty defect repair, maintenance, and other technical support services; and
d) Other related Service obligations the successful Tenderer will have to perform under the Contract, including related travel and subsistence costs.

This information will also help Tenderers identify which site(s) may warrant a site visit during the period they are preparing their tenders. If the System presents complex installation challenges, site layout drawings should be included in the Background and Informational Materials Section.

i) Implementation Schedule Table

*[Specify **desired installation and acceptance dates for all items in Schedule below, modifying the sample line items and sample table entries as needed.**]*

Line Item No.	Subsystem / Item	Configuration Table No.	Site / Site Code	Delivery (Tenderer to specify in the Preliminary Project Plan)	Installation (weeks from Effective Date)	Acceptance (weeks from Effective Date)	Liquidated Damages Milestone
0	Project Plan	- -	- -		- -	W_	no
1	Subsystem 1	1	___		- -	- -	- -
:	etc.						
x	Operational Acceptance of the System as an integrated whole	- -	all sites		- -	W__	yes
y	Recurrent Cost Items – Warranty Period	y	- -				

Note: The System Inventory Table(s) for the specific items and components that constitute the Subsystems or item. Refer to the Site Table(s) below for details regarding the site and the site code.
- - indicates not applicable. "Indicates repetition of table entry above.

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II). SITE TABLE(S)

[Specify: ***the detailed information regarding the site(s) at which the System is to be operated****]*

Site Code	**Site**	**City / Town / Region**	**Primary Street Address**	**Drawing Reference No. (if any)**
HQ	Headquarters			
R1	Region 1			
R1.1	Region 1 Head Office			
R1.2	ABC Branch Office			
R1.3	DEF Branch Office			

III) TABLE OF HOLIDAYS AND OTHER NON – WORKING DAYS

[Specify: ***the days for each month for each year that are non-working days, due to Holidays or other business reasons (other than weekends).****]*

Month	**20xy**	**20xy+1**	**20xy+2**	**....**			**...**	**20zz**
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								

H. System Inventory Tables

Notes on preparing the System Inventory Tables

The System Inventory Tables detail:

a) for each Subsystem (Deliverable) indicated in the Implementation Schedule, the Information Technologies, Materials, and other Goods and Services that comprise the System to be supplied and/or performed by the Supplier;

b) the quantities of such Information Technologies, Materials, and other Goods and Services;

c) the sites and the location of each on a specific site (e.g., building, floor, room, department, etc.)

d) the cross references to the relevant section of the Technical Requirements where that item is described in greater detail.

The Procuring Entity should modify these tables, as required, to suit the particulars of the System (and Sub systems) to be supplied and installed. The sample text provided for various sections of the tables is illustrative only and should be modified or deleted as appropriate.

There are two sample formats given for the System Inventory Tables: one for the Supply and Installation cost items and the second for recurrent cost items needed (if any). The second version of the table permits the Procuring Entity to obtain price information about items that are needed during the Warranty Period.

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A. System Inventory Table (Supply and Installation Cost ITEMS) [*insert: identifying NUMBER]*

Line-item number: [*specify: **relevant line-item number from the Implementation Schedule (e.g., 1.1)]***
*[as necessary for the supply and installation of the System, specify: **the detailed components and quantities in the System Inventory Table below for the line item specified above, modifying the sample components and sample table entries as needed.** Repeat the System Inventory Table as needed to cover each and every line item in the Implementation Schedule that requires elaboration.]*

Component No.	**Component**	**Relevant Technical Specifications No.**	**Additional Site Information (e.g., building, floor, department, etc.)**	**Quantity**
1.	Subsystem 1		- -	- -
1.1	_____			- -
:				
2.	Subsystem 2			- -
2.1	_____			- -
:				

Note: - - indicates not applicable. “indicates repetition of table entry above.

B. SYSTEM INVENTORY TABLE (RECURRENT COST ITEMS) [*INSERT: IDENTIFYING NUMBER*]–

Line-item number: *[specify: **relevant line-item number from the Implementation Schedule (e.g., y.1)**]*

Component No.	Component	Relevant Technical Specifications No.	Y1	Y2	Y3
1.	Warranty Defect Repair		all items, all sites, included in the Supply and Install Price	all items, all sites, included in the Supply and Install Price	all items, all sites, included in the Supply and Install Price
2.	Software/Firmware Licenses and Updates:		all items, all sites, included in the Supply and Install Price	all items, all sites, included in the Supply and Install Price	all items, all sites, included in the Supply and Install Price
3.	Technical Services				
3.1	Sr. Systems Analyst		----days	----days	----days
3.2	Sr. Programmer		----days	----days	----days
3.3	Sr. Network Specialist, …. etc.		----days	----days	----days
	…				

Note: - indicates not applicable. “indicates repetition of table entry above.

2. Background and Informational Materials

Notes on Background and Informational Materials

This section of the tendering document provides a place to gather materials that the Procuring Entity believes will help Tenderers prepare more precisely targeted technical tenders and more precise tender prices.

These materials MUST NOT introduce requirements for the Information System. Rather they should assist Tenderers to interpret the Technical Requirements and the General and Specific Conditions of Contract. For example, these Background and Informational Materials may describe existing information systems that the Information System to be supplied and installed under the Contract must integrate with. However, the specific requirement that the Supplier must integrate the Information System with other systems needs to be stated in the Technical Requirements. Similarly, these Background and Informational Materials may describe the legal and regulatory norms (including for example statutory report formats) that are relevant to the Information System. The Technical Requirements Section would need to spell out that the Supplier must ensure the Information System complies with the relevant legal and regulatory norms.

Background and Informational Materials

Note: The following is only a sample outline. Entries should be modified, extended, and/or deleted, as appropriate for the particular System to be supplied and installed. DO NOT introduce requirements for the System in this section.

A. BACKGROUND

1 The Procuring Entity

1.1 [provide: an overview of the Agency's legal basis, organizational role, and core objectives]

1.2 [provide: an overview of the stakeholders to the Information System

1.3 [provide: an overview of the Procuring Entity's project management and decision-making arrangements applicable to the System and performance of the Contract]

2 The Procuring Entity's Business Objectives for the Information System

2.1 [provide: an overview of the current business objectives, procedures, and processes and how they will be affected by the System]

2.2 [provide: an overview of the changes in objectives, procedures, and processes to be made possible by the System]

2.3 [provide: a brief description of the expected benefits of the System]

B. INFORMATIONAL MATERIALS

3 The Legal, Regulatory, and Normative Context for the Information System

3.1 [provide: an overview of the laws, regulations and other formal norm which will shape the Information System.]

3.2 [provide: samples of existing standardized reports, data entry forms, data formats, data coding schemes, etc. which the Information System will need to implement.]

4 Existing Information Systems/ Information Technologies Relevant to the Information System

4.1 [provide: an overview of the existing information systems and information technologies which will establish the technological context for the implementation of the Information System.]

4.2 [provide: an overview of the ongoing or planned information systems initiatives that will shape context for the implementation of the Information System.]

5 Available Training Facilities to Support the Implementation of the Information System

5.1 [provide: an overview of the Procuring Entity's existing training facilities that would be available to support the implementation of the Information System.]

6 Site Drawings and Site Survey Information Relevant to the Information System

6.1 [provide: information of the sites at which the Information System would be implemented.]

TECHNICAL SPECIFICATIONS FOR THE SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, AND SUPPORT OF THE KENYA INTEGRATED ELECTIONS MANAGEMENT SYSTEM

1.1. BACKGROUND

1.1.1. Mandate of the Commission

Article 88 of the Constitution of Kenya establishes the Independent Electoral and Boundaries Commission (IEBC) ['the Commission"] as the body mandated to conduct and/or supervise elections and referenda in Kenya. In carrying out its mandate, the Commission is responsible for the registration of voters and updating the voters roll, delimitation of constituency and ward boundaries, regulation of the process of how parties nominate their candidates, registration of candidates for elections, voter education, resolution of disputes arising out of the nominations, and regulation of the amount of money used by candidates in an election among others. This mandate is further amplified in other Acts of Parliament and Regulations.

The Commission has developed a new 2024-2029 strategic plan that sets out the priorities for the next five years. The plan is anchored on six pillars against which goals, objectives, and outcomes are framed.

The following are the Key Result Areas/Strategic Focus Areas (KRAs/SFAs) for the Commission over the strategic planning period.

i. KRA 1: Managing Elections

ii. KRA 2: Meaningful Citizen Engagement and Participation

iii. KRA 3: Equitable Representation

iv. KRA 4: Institutional Resilience

1.2. Strengthening Strategic Operations (Strengthening the institutional capacities of IEBC, managing risk in IEBC, strengthening ICT in elections and operations, strengthening finance function and capacity for improved service delivery, strengthening procurement, warehousing, and logistics functions in IEBC, strengthening planning, research and development functions of IEBC)

1.1 INTRODUCTION

Following the enactment of the Elections Laws (Amendment) Act, 2016, the Commission embarked on a strategic technological modernization program to enhance the integrity, efficiency, and transparency of Kenya's electoral process.

The foundational Biometric Voter Registration (BVR) system, introduced in 2012, established a critical framework for the creation and maintenance of a biometric-based Register of Voters. This was significantly advanced in 2017 with the deployment of the integrated Kenya Integrated Elections Management System (KIEMS). The initial KIEMS deployment involved 46,500 specialized devices and supporting infrastructure, which were successfully utilized in the 2017 General Election, the subsequent Fresh Presidential Election, and numerous by-elections, solidifying the role of technology in Kenyan elections.

Building on this foundation, the Commission's continuous improvement agenda led to a successful technology deployment for the 2022 General Election. This election leveraged an audited Register of Voters with over 22.1 million registrants across 46,229 polling stations, demonstrating the system's scalability and reliability under national-scale operational pressure.

The KIEMS ecosystem is a comprehensive solution comprising both software and hardware:

Software Components: Include applications for Electronic Voter Identification (EVI), Candidate Registration Management, and the Results Transmission System (RTS).

Hardware Components: Encompass front-end KIEMS kits (device, protective casing, power bank, accessories) and robust back-end data centre infrastructure hosting critical application and database servers.

To ensure future readiness, the Commission has proactively modernized its core infrastructure, including the ongoing migration of key systems to a new, scalable platform. The strategic focus is now on consolidating these technological gains, addressing operational lessons learned, and implementing a robust framework for continuous support and enhancement.

Therefore, the Commission seeks to establish a comprehensive partnership for system support, maintenance, and strategic upgrades. This initiative aims to guarantee the highest levels of serviceability, reliability, and availability of the election technology platform, ensuring it remains fit-for-purpose for future electoral cycles, including the ambition to grow the voter register to an estimated **30 million voters** by 2027.

1.3. PROVISIONS OF THE ELECTORAL LAWS ON TECHNOLOGY

1.3.1. As part of the electoral reforms informed by the lessons learned in the 2013 general elections, the election laws were amended in 2016 to expound on the type and manner in which technology was to be used in Kenya elections.

1.3.2. Section 44 of the Elections Act 2011 was amended to establish an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.

1.3.3. Section 6A of the Elections Act requires the Commission to open the register of voters for verification of biometric data by members of the public. In 2017 the Commission deployed KIEMS kits for verification of voters' details for a period of thirty days (30) in compliance with this provision.

1.3.4. Extracts of Section 44 of the Elections Act as amended reads as follows.

i. Subject to this section, there is established an integrated electronic electoral system that enables biometric voter registration, electronic voter identification and electronic transmission of results.

ii. The Commission shall ensure that the technology in use under subsection (1) is simple, accurate, verifiable, secure, accountable and transparent.

iii. The Commission shall in an open and transparent manner,

(a) procure and put in place the technology necessary for the conduct of a general election at least one hundred and twenty days before such an election; and

(b) test, verify and deploy such technology at least sixty (60) days before a general election.

1.3.5. Section 39(1C) (A) of The Elections Act, 2011 requires that the Commission shall electronically transmit, in the prescribed form, the tabulated results of an election for the President from all polling stations to the constituency tallying centre and to the national tallying centre.

1.3.6. Further Section 44A of the Act requires the Commission to establish a complimentary mechanism for transmission of electronic results as well as for Electronic Identification of voters.

1.4. The Supreme Court of Kenya (SCOK) in the Presidential Petition No 1 of 2017 pronounced itself on the manner in which the Results Transmission system should work. Specifically, the SCOK determined that the final results for the presidential election are the results on form 34A from the polling stations. Further the SCOK observed that in the tabulation

and verification of the results, the National Returning Officer should verify the results against the form 34A before declaration

1.5. ELECTORAL TECHNOLOGY DEPLOYMENT IN KENYA

Information and Communication Technology (ICT) plays a vital role in enhancing the efficiency of the electoral process. The Commission has deployed technology in the management of the following electoral processes.

a) **Biometric Voter Registration (BVR)**

The BVR system is used to enrol new voters and maintain the register of voters. It consists of the following components:

i) Front-end client Interface for capturing Biographic data, ten (10) fingerprints, iris and facial image of a voter.

ii) Central system for management of civil and voters' data and report generation features.

iii) Automatic Biometric Identification System (ABIS).

Using the existing BVR system, the Commission has been able to register over 22.3 million voters. The Commission projects that by 2027, this will reach a target of **30 Million** registered voters.

b) **Electronic Voter Verification (EVV) and Identification (EVI)**

The Commission uses electronic voter verification software during the inspection of the register of voters and Electronic voter identification software during the polling day. The EVI application is installed in the device and the biometric data (Fingerprint and Photo) and alpha-numeric data of voters are loaded on a Secure Digital Card (SD Card).

c) **Results Transmission (RTS)** The RTS was conceptualized from the need to have efficient and timely transmission of results from the polling stations to the tallying centres. This is in accordance with the section 39(1) C of the Elections Act No.24 of 2011 revision 2016. The RTS software is installed on the device for transmission of the scanned image of the presidential results forms.

The devices are configured to work over a Virtual Private Network provided by the local telecommunication network operators within the existing mobile network.

d) Candidate Registration and Management System (CRMS)

The Commission uses CRMS to register nominated candidates from the respective political parties as well as independent candidates. The details of the candidates' biodata, portrait, elective position and electoral area are captured in the CRMS by political parties through an online interface provided by the Commission.

At the end of the Political Party primaries, the party-sponsored and independent candidates present their nomination documents to the returning officer in their respective electoral areas. The CRMS application enables the returning officer to verify and clear candidates based on the presented documentation. The system is integrated with the biometric register of voters to verify the voter registration status of the candidates by the returning officer.

The system also produces the ballot proof that is used for the production of the ballot paper for the candidates who have been cleared. The ballot templates are designed and generated in collaboration with relevant ballot printing press.

1.6. OBJECTIVES OF DESIRED SYSTEM

The Commission is seeking to put in place the integrated electronic electoral management system to enhance its integrity, efficiency, and transparency. The system shall be simple, transparent, secure, verifiable, and reliable during voter registration, candidate registration for elections, voter verification and identification as well as results transmission. The specific objectives of the system shall include the following modules: -

1. The Biometric Voter Registration (BVR) shall consist of the following

   i. BVR front-end for the device that provides an interface for the registration of voters,

   ii. BVR back-end (ABIS) and other central systems for management of the register of voters.

2. The Electronic voter verification and identification (EVV/EVI).

   i. EVI front-end that shall be installed on the devices for biometric identification and verification of voters.
   ii. EVI back-end for preparation and production of the biometric register of voters per polling station.

3. The Results Transmission (RTS)

   i. RTS front-end will consist of the following:

      a) Capture and upload image of the results form

   ii. RTS back-end will perform the following:

      a) Capturing, uploading, and tallying and display of results at the tallying centre

b) Integration with the CRMS for the configuration of candidates.

c) Publication of results forms at a public portal

d) Interface for the returning officer generation of reports (Form B).

4. **Geo-fencing capability:**

The system should have the Geo-fencing capability with GNSS (Global Navigation Satellite Support) of GPS and at least two other systems.

1.7. GENERAL REQUIREMENTS

1.7.1. These specifications describe the system requirements for the following;

A) Framework for the supply and delivery of hardware equipment and accessories that the Commission may require from time to time in preparation for By-Elections, General Elections, and/or referenda.

B) Supply, Delivery, Installation, Testing, Commissioning, Support and Maintenance of the KIEMS Software.

1.7.2. Tenderers are requested to submit detailed system designs, architecture drawings, workflows, catalogues, and project implementation plans among others for the system upgrades they intend to undertake.

1.7.3. Tenderers must indicate on the specifications sheets whether the system shall comply with each specified requirement.

All the technical specifications for the proposed system shall not be less than those required in these requirements specifications.

1.7.4. The system shall be subjected to stress testing, load balancing, penetration test, functional tests, and any other tests as may be prescribed by the Commission in accordance with the Elections (technology) Regulations 2017.

1.7.5. The Commission may engage an independent professional body to provide assurance and certification that the election technology meets the user requirements and specifications.

1.7.6. The Commission shall be at liberty to carry out assessment of the structure and design of the Integrated Election Management System to ensure that the proposed solution is technology-neutral, flexible, and has no technology lock-ins by the vendor. The System should allow the Commission to perform its functions with minimal vendor interventions.

1.7.7. The proposed system shall have inbuilt high availability and shall ensure that data can be replicated or distributed into multiple server locations.

1.7.8. The tenderers shall be required to supply all the tools to enable the Commission staff to prepare and generate the register of voters required during all electoral activities.

1.7.9. The tenderers shall be required to supply tools to enable the Commission staff to prepare KIEMS Kits for use during electoral activity.

1.7.10. The bidders shall be required to supply tools to enable the Commission staff to generate and duplicate the SD cards or any other media required for the storage of voters' data for the KIEMS kits.

1.7.11. Provide software upgrades on the devices as may be required from time to time either due to changes in the register of voters, voter identification and results transmission software within the support and maintenance period.

1.7.12. The tenderers are required to provide the following information in their proposals:

a) Scope of the system Installation and configuration including timelines.

b) System testing and independent certification with timelines.

c) Training and knowledge transfer to Commission staff.

d) System handover and commissioning.

e) Biometric Voter Registration data migration plan and timelines.

f) Delivery timelines for Kenya Integrated Elections Management System.

g) Supply of additional devices.

h) Supply of accessories i.e. SD cards, power banks etc.

i) Working space requirements for device configuration, charging, dispatch for approximately **60,000** devices, power banks and other accessories. The Commission will be responsible for acquiring the working space

j) System for inventory management for devices and accessories during production, distribution and retrieval.

1.8. FRAMEWORK FOR THE SUPPLY AND DELIVERY OF HARDWARE EQUIPMENT AND ACCESSORIES

1.8.1. The Commission acquired KIEMS devices in 2022 and intends to upgrade its hardware to higher specifications **"as and when required"**. The supplier may be called upon to replace the following hardware of equivalent or higher specifications.

S/NO.	ITEM	SPECIFICATIONS
1.	Biometric device	Supply of Biometric Devices to replace damaged or fault kits as per specifications

2.	Rubber case protection	The rubber protection against damage during bumps and drops while being easily handled by users
3.	Power Banks	An external 20,000 mAh/65.0Wh Power Bank, with at least double the capacity of the device's battery. The power bank should have an attached flexible connector cable.
4.	Adapter Chargers	Charger with Kenyan plug and Micro USB cable usable for Device and external battery. Input: 100-240V~50/60HZ
5.	Safe and light Packaging /Carrying cases	The proposed packaging should have a defined space for each of the kit components, which includes the biometric device, the necessary charger, cable and external battery and any other accessories. The packaging to be padded It should be safe and light packaging
6.	Tamper Evident Security Seals (Self – Adhesive)	Self-adhesive security seal 100x20 mm red Polyester Material with 0.045 mm thickness

1. Additional devices may be required to replace faulty or missing devices
2. The main features of this biometric identification device are:

   i) Minimum 10" touchscreen;

   ii) Fingerprint optical sensor, FBI PIV IQS, or STQC certified to provide at least 2 fingers scanner; or FAP 50/FAP 60 standard

   iii) Minimum 8GB memory, 256GB internal storage, and 2.4GHz processor

   iv) Minimum13-megapixel camera with dual LED, 1D/2D barcode and MRZ reading capability;

   v) Contact smart card reader;

   vi) Near field Communication (NFC) capability;

   vii) Embedded RFID transmitter;

   viii) Contactless smart card reader;

   ix) Scanning capability: Scanner with MRZ reading capability should be able to scan A4 size paper, ID Cards or Passports. The scanner should have auto alignment and double feed detection functionality. Upon scanning the device should generate encrypted PDF file

   x) Signature capture capability;

xi) Embedded security features;

xii) 3G/4G/5G, Dual micro-SIM cards, Wi-Fi and Bluetooth.

xiii) Iris capture capability

xiv) Geo fencing capability

xv) Support for eSim functionality

The Commission may require up to **60,000** new devices subject to the number of new registered voters which will determine the number of polling stations.

1.9. SUPPLY, DELIVERY, INSTALLATION, TESTING, COMMISSIONING, SUPPORT AND MAINTENANCE OF THE KIEMS SOFTWARE

This consists of the supply, delivery, installation, testing, commissioning of the following components and provides information as pertains

i. Performance Requirements of the Information System
ii. Service Specifications- Supply & Install Items
iii. Software Customization/ Development
iv. System Integration (to other existing systems)
v. Training and Training Materials
vi. Data Conversion and Migration
vii. Documentation Requirements
viii. Requirements of the Supplier's Technical Team
ix. Technology Specifications- Supply& Install Items
x. Network and Communications Specifications
xi. Standard Software Specifications
xii. Testing and Quality Assurance Requirements
xiii. Service Specifications-Recurrent Cost Items
xiv. Implementation Schedule;

All above in the following respective areas:

i. Biometric Voter Registration Software.
ii. Biometric Voter Identification and Verification Software.
iii. Candidate Registration and Management System
iv. Electronic Results Transmission system

This also includes provision of Support and maintenance of the supplied systems for a period of Three (3) years from the date of contract signing.

All supplied software must provide APIs for possible integration and exchange with the Commission's other existing systems.

The Commission has the following hardware equipment that the successful tenderer should use with the supplied system:

1. Converged Server infrastructure (Details to be provided upon request).
2. Android Devices (Approx. 14,100), Additional accessories..

The Commission will take every necessary step to facilitate access to drivers, SDK, firmware, keys and other elements of the biometric devices to make the integration with the device to the successful bidder.

1.9.1. TECHNICAL SPECIFICATIONS FOR THE BIOMETRIC VOTER REGISTRATION MODULE

The system should be able to register eligible voters, allow record creation, update of existing records and/or integration with existing biometric voter registration database. Specifically, the system should meet the following specifications:

B. Voter Registration (Front – End Client)

1. Ability to capture the following voter particulars:

   i. First Name

   ii. Middle Name

   iii. Surname/Family Name

   iv. Date of Birth (DD/MM/YYYY)

   v. Gender (male, female or intersex)

   vi. Type of Identity Document – National ID (the Second Generation ID or Maisha cards) or Passport Identity Document Number

   vii. Expiry Date

   viii. Fingerprint image (maximum of ten)

   ix. Facial Image capture

   x. Iris capture

   xi. Level of Education (None, Primary, Secondary, Graduate, Post Graduate)

   xii. Unique Elector's Number (System Generated at registration)

   xiii. Name of County, Constituency, County Assembly Ward, Registration Centre

   xiv. Date of Registration (system generated).

xv. Time stamp (system generated)

xvi. Mobile phone number (country specific)

xvii. E-mail address

xviii. Type of Physical Challenge/Special needs (none, blind, deaf, physical, other)

xix. The system should have Yes/No button displaying the text “will you require assistance from anyone during voting” and “If yes specify the nature of assistance”

xx. Scanned image of the ID/Passport (Compressed format)

xxi. Applicants Signature

xxii. Special Notes

2. Must integrate with an MRZ identification code capture system and must be capable of reading the national ID card MRZ code (the Second Generation ID, Maisha cards and Passport).

3. The Voter registration system (front-end) should have the capability to transmit encrypted registration data to a central server and provide logs and reports for the transmitted data.

4. The registration system should be able to store the captured data on the kit or portable device.

5. Provide role-based access control for the client application The system should ensure

data entry validation such as:

i. Validate and capture best quality of fingerprints as per international standards-

ii. Minutiae Points (International Identification Standard)

iii. Major Fingerprint Pattern Types

iv. Fingerprint Recording Standard (10-Print System)

v. Interpol / ISO Digital Fingerprint Standards

vi. Should have an In-kit ABIS for validation of enrolments to minimize multiple registrations.

vii. Flexibility to reconfigure False Acceptance Rate and False Rejection Rate due to poor quality biometrics (Fingerptints and Iris) .

viii. The system should validate and capture the best quality passport size photo as per international standard. Poor quality images should be rejected.

ix. Alpha fields such as name fields should reject numeric inputs.

x. ID Number field should reject alphabets and/or special characters in accordance with the Kenyan National Identification Card Format

xi. The passport field should only accept specific data format in accordance with the Kenyan passport format.

xii. The date of birth field should not allow under age (below 18 years)

xiii. The following mandatory input fields should not be blank: First name, surname, facial image, all fingerprints, iris image, date of birth, registration document number, gender, county, constituency, county assembly ward, Registration Centres, date of registration and time stamp.

6. Ability to bypass requirements to capture 10 fingerprints for persons with less than 10 fingers.

7. The system dashboard for all functions of the application should be uniform including screen navigation and screen selection features.

8. The user interface should be user friendly, interactive and have an on-screen context-sensitive help functionality

9. The system must generate unique elector's number and provide in-kit biometric matching to minimize duplication at source

10. Access to the system should be controlled by passwords and/or biometrics.

11. Passwords and usernames should be uniquely assigned

12. Provide a password management capability for administration

13. Comprehensive auditing and audit trail features including facility to monitor system usage with an export functionality.

14. Full back-up, recovery and restore facility within the package to enable complete file restore and recovery through Continuous backup during registration on the device and Registration data export functionality to an external media

15. Facility for output/reports should be capable of being directed to a printer, screen or file.
16. The system should be able to generate the following report from the front end client application:

    i. Detailed report of registered voters by date (Name, ID number, Registration centre)

    ii. Voter registration statistics report per registration centre.

17. The system should be able to securely store captured records on the system and on an external media.

18. The captured voter registration records should be transmitted and uploaded to the central database securely in real time whenever there is network connectivity

19. The voter registration application shall be (optionally configurable) to provide functionality for validation of the registration records against physical forms by the registration officer.

20. Ability to warn users of violation of set legislative or electoral requirements i.e. age

must be 18 and above, attempts for double registration must be rejected.

21. Where the document used to register as a voter is a passport, the software must automatically check for the validity date of the document as read from MRZ.

22. The system shall allow users to display on the local device details of individual voter registration/enrolment records by selecting from any on-screen summary listing of voter records.

23. Ability to export data in different formats e.g. ASCII (both delimited and fixed- width) file that will contain all active, inactive or cancelled applications, or any combinations thereof that are subject to disclosure under Kenya public records laws.

24. Provide ability to update electoral mapping of counties, constituencies, wards, and registration centres.

25. The systems should have the ability to allow updates of bio-graphic and biometric data. The user should be enabled to edit applicants text records on a form based input screen on the device. This must be authenticated through the applicant's biometrics fingerprints to unlock the applicant's record.

26. The system should provide a user interface for effecting voter transfer to another registration centre. It should enable the voter to authorize the transfer using fingerprint. The system should not allow the registration officer to transfer voters outside his/her designated constituency. This should work both in online and offline modes.

27. The Registration Officer should be able to view or generate reports on transfers in and out of his/her constituency for tracking voter movements and changes of the register of voters over time.

28. The system should display kit serial number to enable detection and tracing of any photo of the screen

29. Voter Pre-Registration Integration/Online Pre-Registration module

C. Online Voter Pre-Registration System (VPRS)

As part of the overall Kenya Integrated Election Management System (KIEMS) solution, the successful KIEMS vendor shall design, develop, implement, integrate, and support an Online Voter Pre-Registration System (VPRS). The VPRS shall seamlessly integrate with the KIEMS Biometric Voter Registration module on the front end and the Integrated Population Registration System (IPRS) to facilitate secure online voter pre-registration, improve data accuracy, reduce registration time, and enhance the overall voter registration process.
The VPRS shall, at a minimum:

i. Provide a secure, user-friendly, and responsive online voter pre-registration portal.
ii. Integrate securely with the voter database, Integrated Population Registration System (IPRS) for voter identity verification and retrieval of biographical data.
iii. Seamlessly integrate with KIEMS device ,Voter Registration Software using secure QR Code and/or API-based data exchange.
iv. Implement robust security controls, including encryption, role-based access control, audit trails, and compliance with the Kenya Data Protection Act and ISO/IEC 27001:2022.

v. Support high availability, scalability, and performance for nationwide voter registration.
vi. Provide a secure administrative dashboard with monitoring, reporting, and audit capabilities.
vii. Include comprehensive testing, documentation, and training for IEBC technical and business users.
viii. Transfer all source code, documentation, and intellectual property rights to the Commission upon project completion..
ix. Ensure full interoperability with existing IEBC systems and future KIEMS enhancements.
x. Implement a QR code scanning function to import encrypted biographic data into the registration functionality.
xi. Automatically populate biographic fields from the QR data.
xii. Proceed with biometric capture once the data is loaded.

D. Voter Registration Central system (back-end)

1. Functional requirements for Biometric central system

i. The registration data sent from the devices at registration centres shall be received in a staging server where validation control measures are applied.

ii. The staging server shall ensure the validation of the data encryptions and digital certificate for all enrolment records.

iii. The central system should have functionality for generating a unique digital certificate for each registration kit deployed. This digital certificate shall authenticate each registration record received at the back end.

iv. The system should allow secure remote access to the BVR application servers.

v. The system should have monitoring services for all processes, logs, disk space, memory usage among others.

vi. The Commission has its own Business Intelligence Solution. The system should be able to integrate with this for generation of customized reports for registration officers and system administrators.. These reports include but are not limited to: number of enrolments submitted to the staging server, rejected enrolments, list of transfers effected, register of voters, voter status, gender statistics, age, disability and any other report that may be prescribed by the Commission. The reports should be user-defined through SQL queries, etc.

vii. The system should have a back-end functionality for registration officers to update voter particulars and applicant's/voter's status. The status shall include active, deceased and deleted etc. The functionalities should be assigned to registration officers when necessary.

viii. Transmission of enrolment requests and logs from the kits to the Central system shall be done both online and offline in a secure manner.

ix. The central system should have an interface to allow the Commission to define the maximum number of voters per polling station (currently capped at 700 voters) and evenly distribute voters in all polling stations.

x. The system should provide the Commission with the capability to define the sorting criteria and arrangement of voters names per polling station (streaming of voters) during generation of register of voters.

xi. The vendor may preferably utilize the Commission's existing ABIS platform and tools for easier system migration to ensure compatibility with the existing biometric infrastructure, facilitate seamless data transition, and enable faster implementation timelines.The system shall be configured to automatically restrict and disable voter registration activities within electoral areas where a by-election has been declared, in compliance with the legally prescribed timelines under the Elections Act and applicable IEBC regulations.

xii. The system shall enforce gazetted cut-off dates for voter registration and prevent any registration, transfer, or update transactions within the affected electoral area once the statutory deadline has lapsed.

xiii. The ABIS should be able to allow for the performance of matching and quality controls on enrolments in order to de-duplicate the requests or detect exceptions below. These controls should consist of but not limited to the following:

(a) Image Quality Control

The system should make sure that the portrait images captured meet the minimum set international standards. For exceptional cases of records with poor images, the system should isolate and allow operator decisions to be made.

(b) Alphanumeric data Verification

The system should allow for the verification of captured records by an operator at the central site for suspected fraud during registration. Like where an applicant comes to register multiple times using the same or even different documents or where different people are registering using the same document.

(c) Fingerprint Investigation

The system should allow for fingerprint investigation for cases where ABIS suspects multiple registrations. In such cases the central site fingerprint operator should have the rights to make a final decision on such an application.

(d) Alphanumeric investigation

The system should be able to flag out and allow for alphanumeric investigations on those cases of similar registration document details, shared ID/Passport numbers or sequential ID/Passport numbers from the same kit. A central site operator will be able to work on such cases and make a final decision.

(e) Update and Validations of records

The system should allow for the update/amendment of a voter's record when needed. The system should have an interface for the registration officer (RO) to amend and validate records in his/her constituency. The Registration officer should be notified through the system of any voters who have transferred from his/her constituency.

(f) Extraction of data from the database in various formats. - The system should have tools that allows the Commission extract data from the system in various formats including the CSV by authorized technical personnel

(g) Extraction of the Electoral Area mapping - The system should allow for update of the electoral mapping (Counties, Constituencies, County Assembly Wards and registration/polling Centre's) on the central system. The system should be able to update the electoral mapping on the registration kit automatically when the data is updated on the central system.

(h) Generation of various lists/register of voters- The system should allow for the generation of different registers including the preliminary as well as the final register of voters for any given electoral area in a user friendly manner. The system should have an interface and tools for the registration officers to generate their own register at the constituency/ward/polling station level. The system should have an interface for preparation and generation of the final register of voters at the national level. The registration officer should be able to generate reports of voters who have transferred into and out of his/her constituency with date and time stamps.

(i) Data generation Export - The system should allow export of data both alphanumeric and biometric for voter identification and verification. The bidder shall provide procedure manuals and training to the Commission technical staff on how to extract the biometrics and alphanumeric data of voters on either SD cards or any other solution for purposes of voter identification.

(j) QR and Bar Codes generation – The system should provide tools for generating QR/Bar codes.

2. **Functional requirements for the Automatic Biometric Identification System (ABIS)**

The vendor shall propose the central biometric matching solution for a minimum of thirty (30) million records for identification and de-duplication of the registered voters.

The vendor must provide an operational plan and procedures that provides a clear workflow of how data would be processed from the registration centre to the central matching servers for the generation of the register of voters.

The solution must provide the following features:

1. Optimized matching algorithms clearly explained in the proposal
2. A graphical user interface for management of the register of voters.
3. Automated processing of data after upload from the registration kits.

At all times during the biometric matching process, all the voter registration records shall remain the property of the Commission and must adhere to the prescribed confidentiality in the Kenyan data protection laws.

No part of the voter registration records may be used for any other purpose (such as research, analysis, sale etc. to third parties) other than for the direct use by the Commission for purposes

of conduct of elections. The Commission reserves the right to terminate any engagement by the vendor should this provision be breached by the vendor.

3. **Standards and requirements for the Central Biometric matching module**

(j) **Digital Fingerprint Image Standards**

(i) All new fingerprint imaging components provided with the ABIS shall capture and digitize distortion-free fingerprint images at a spatial resolution of 500 PPI in both the horizontal and vertical dimensions, and with a minimum of 8-bits per pixel grey-scale quantization. Although some legacy fingerprint records contained in the system databases may include lower resolution images, the objective is to utilize 500 PPI images to the extent possible.

(j) Voter software fingerprint image acquisition, display and printing shall be in accordance with applicable FBI IAFIS Image Quality Specifications (IQS), as specified in the most recent version of the FBI Electronic Biometric Transmission Specification (EBTS).

1. All imaging components (e.g., latent input software, multifunction software scanners, etc.) shall be capable of maintaining image quality performance in accordance with their associated IQS minimum standards throughout the life of the component.

2. The capability to periodically test image acquisition devices with an FBI standard test target and demonstrate IQS compliance of each imaging component shall be provided with the system. In response to this requirement, the bidder shall explicitly describe the capability or capabilities that will be provided and procedures that will be used to maintain IQS compliance for each imaging device including fingerprint scanners.

(k) The ABIS system shall be able to handle both lower resolution and 500 PPI NIST formatted fingerprint image records without limitation.

a) The BVR system shall provide for efficient transcoding between 500 PPI images and lower resolution images if required for internal ABIS identification processing. Internal feature extraction and matching of images at their full original resolution is preferred. Bidders shall explicitly describe whether transcoding from 500 PPI to lower resolution images is required prior to feature extraction and matching in their proposed ABIS solution.

b) The ABIS system shall provide for efficient transcoding from 500 PPI images to lower resolution (PPI) images as necessary to support interaction with external devices and systems that are not capable of handling 500 PPI images.

(l) The ABIS shall fully support processing of uncompressed images and compressed images, which are compressed using an FBI-certified compression method

(m) The system shall utilize any FBI-certified Wavelet Scalar Quantization (WSQ) compression method for the compression of lower resolution fingerprint images, in accordance with the most recent version of IAFISIC-0110.

(n) The system shall utilize any FBI-certified JPEG-2000 compression method for the compression of 500 PPI fingerprint images, in accordance with the most recent version

of ISO/IEC15444-1, 2019 (the JPEG-2000 standard approved by the FBI for 500 PPI fingerprint images.)

(o) The average (mean) compression of fingerprint images that are compressed by the ABIS or any KIEMS kit shall not exceed a compression ratio of 15:1. The Bidder shall specify the average compression ratio standard that will be implemented in the proposed system to achieve optimal identification performance.

(p) All image records shall be stored in the Commission-owned storage systems as complete records that must be in compliance with the formatting standards established in the most recent version of the American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information. The system shall store and maintain compliant NIST records for the following types of images:

1. 500 PPI WSQ-compressed Fingerprint Records
2. 500 PPI JPEG-2000 compressed Fingerprint Records

The bidders will be required to provide independent third-party certification as evidence of adherence to these standards.

(k) **Photo Image Standards**

(i) The system or software capabilities provided with the ABIS for acquisition and display of facial photos:

- Shall generally follow the guidelines established and comply with the latest version of NIST Best Practice Recommendation for capturing facial images.
- Shall conform to the standards and practices defined in ISO/IEC 19794-5/ICAO, ISO/IEC 19794-6/ICAO (or later) requirements and best practices for Digital Facial Portraits.

(j) The Bidder shall provide an implementation of the photo image capture capabilities and configuration recommendations (e.g. compression rates) that are optimized for automated facial recognition performance in accordance with the ICAO standards while maintaining conformance with the NIST best practice recommendation to provide for effective use of the photo records in investigations and voter identification.

(k) Colour photograph images shall be compressed using a compression technique that is in compliance with the Joint Photo Experts Group (JPEG) Standard for Still Image Compression, in accordance with the most recent revision of ANSI/ISO IS10918: 1992, and in conformance with the compression rates specified in the ICAO standards for optimum facial recognition performance.

(l) All photo image records shall be stored in the Commission's data storage systems as complete NIST-type records in compliance with the formatting standards established in the most recent version of the American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information

The bidder will be required to provide the accessories e.g. backdrops for new kits that provide conditions necessary to comply with ICAO standards.

(l) **Network and Telecommunications Standards**

The system implementation shall provide full capabilities for formatting and communicating (transmitting and receiving) ABIS fingerprint record and photo images in accordance with the latest version of the following international standards:

1. **ANSI/NIST-ITL 1-2011**: *American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information – Part 1*.
2. **ANSI/NIST-ITL 2-2008**: *American National Standard for Information Systems – Data Format for the Interchange of Fingerprint, Facial & Other Biometric Information – Part 2: XML Version.*
3. **IAFIS-DOC-01078-9.0**: *FBI Electronic Biometric Transmission Specification (EBTS).*

(j) The system implementation shall utilize TCP/IP Communications Protocol for all LAN/WAN communications.

(k) All communications shall be compliant with IEBC network security encryption requirements for accessing and communicating sensitive personal information, and the selected bidder shall be responsible for ensuring that all installations and operations obtain or support a full compliance certification.

1. The system shall support "strong" password authentication consistent with IEBC ICT Policy guidelines, for accessing and communicating information via the Commission's network infrastructure.
2. The system shall support data encryption for communication of sensitive personal information with external sources and recipients over public and private networks.
3. The system shall provide support for Virtual Private Network (VPN) and Transport Layer Security (TLS) communications for establishing network connections with external sources and recipients over public or private networks. Any TLS encrypted application shall be required to provide 2 factor authentication including primary user-ID/password and secondary authentication, such as HW token, smart card, or biometric verification. For the system and software, the preferred method for secondary authentication is fingerprint biometric identification.

(l) The bidder shall provide responsive technical assistance to define network requirements, identify and assess implementation alternatives; implement and test network communications configurations, and perform configuration or reconfiguration to ensure that all installations satisfy all applicable security requirements.

(m) Geo fencing capability. The system should be able to operate only within the geographic boundaries of their designated polling stations.

(n) E-Sim capability. The system should allow activation of a mobile network plan electronically and have a centralized sim management.

NB: The bidder will be required to provide independent third-party certification as evidence of adherence to these standards.

(m) **System Administration requirements**

(i) The system shall provide the capability for system operations, including system start-up and shutdown, component reconfiguration, and operational control and monitoring to be performed from a system control console (workstation terminal).

(j) Dedicated system control console workstations shall be provided and configured with appropriate system control and database administration applications software for the central control and administration of all system configurations, databases, operational processes, system administration functions, maintenance, and reporting.

(k) The system control consoles shall support on-line access to all operations and maintenance documentation for the central systems and every type of bidder supplied software, terminal and peripheral.

(l) The system configuration shall include a system control console workstation at the primary installation site and at a mirror site to be identified by the Commission, and a system administrator shall be able to control all processes on both system segments from either location.

(m) The system controls shall be provided through a graphical user interface, with clear instructions and messages presented to the operator.

(n) **System Configuration Management requirements**

(i) A comprehensive capability shall be provided for the management of the system configuration, including automated and interactive tools for maintaining hardware and software configuration information.

(j) The system design shall incorporate user-maintainable data structures (e.g., code tables, communications routing tables, user permissions), which define and control all standard codes, values, physical configurations and security, and are supported by comprehensive technical documentation and user training.

1. At a minimum, the following tables shall be user-maintained:

1. System network configurations, workstation and software IP addresses, and communications routing codes.

2. Authorized users, user permissions and user access controls.

2. The system shall be maintained by a trained system administrator and shall not require re-programming or manufacturer intervention to maintain system tables.

3. The system shall provide capabilities that enable an authorized system administrator to easily edit, add, or delete individual entries in any table or update/replace a complete table.

4. The system shall provide capabilities that enable an authorized system administrator to:

    1. Automatically confirm successful installation of the updates. Automatically log the updates for administrative reporting; and

    2. Automatically report any update errors to the system administrator.

(k) Software version updates and corresponding updates for user documentation shall be provided under the system warranty and any subsequent maintenance agreement.

(l) All software updates and software or hardware shall be subjected to formal change control review and approval before being applied.

(m) An administrative capability to track and report change history shall be provided with the system.

(n) The system shall include a capability to test changes in an identical operational system environment (sandbox) prior to introduction of the changes into the production configuration.

(o) The system shall include an in-built capability to roll back changes.

(p) The vendor should ensure application of security hardening features before deployment

(o) **System Status Monitoring and Diagnostics**

(i) The system shall provide system monitoring and alerting capabilities using Simple Network Management Protocol (SNMP) monitoring, with capabilities including:

1. Capability to automatically monitor the central system components, processes and infrastructure services, and to provide real-time detection of the occurrence of system problems including hardware component failures, software problems and service interruptions.

2. Capability to automatically generate and send email messages for notification to the system administrator and/or the responsible maintenance entity regarding the detection of a system problem

3. System administrator dashboard display of system status and problems detected with drill-down descriptions of response requirements.

4. Capability for authorized management personnel to access and monitor system usage and system status dashboard information from a networked workstation.

(j) The system capabilities for remote monitoring, diagnostics and correction of problems shall be subject to the following:

1. The remote access capability shall be implemented under the direction of IEBC/ICT and shall be fully compliant with IEBC network security and access

control policies.

2. Remote access to the system shall be controlled by IEBC/ICT, and the remote access capability shall be capable of remaining in a disabled state, unless it is specifically enabled on a temporary basis to support scheduled routine maintenance or remedial maintenance.

(k) The system shall maintain system monitoring logs, which are defined as the date/time stamped record of system or component starts and restarts, system or component shutdowns and off-line conditions, hardware errors reported by the operating system, software errors reported by the system's applications software programs and infrastructure electrical service and network communications interruptions.

1. The system shall provide on-line retention of daily system monitoring logs for at least 90 days, followed by permanent archival storage.

2. The system shall enable authorized system administration and system support personnel to access the system monitoring log, application logs and to selectively print reports for a specific error or incident or for a specified time period, from any device. Reports shall be in an easy-to-read format that clearly states the nature and extent of the hardware and/or software problem reported.

3. The system shall be capable of providing error logs and system status information in response to system user requests. This information shall provide intelligible assistance in the trouble-shooting and fault diagnosis of problems.

(l) The system shall provide built-in system diagnostics and error correction capabilities, including:

Interactive diagnostic tools with comprehensive capabilities for status checking and problem isolation for every component of the central system segments.

1. Comprehensive on-line system administration documentation, including descriptions of system error messages and their interpretation, system diagnostic capabilities and operational procedures, and response requirements for specific problems.
2. Remote control troubleshooting and maintenance capability to allow a remotely located system engineer to operate central server and networked workstation or software diagnostics, correct operational problems and download software modifications.

(p) **System Security and Access Control**

(i) The security administration capability shall ensure that all bidder-supplied workstations that access the systems, functions and data, including central consoles and administrative software, as well as installed user software at local and remote offices, comply with and enforce user compliance with the IEBC/ICT policy. Bidders shall provide a detailed description of their proposed security administration and authentication capabilities and how these capabilities will satisfy the ICT Policy.

(j) The security management software shall provide the following functions and

capabilities:

1. Automatically log-off a current operator when a new operator logs on, to ensure that only a single operator can be the operator of record at any given time.

2. An automatic log-off capability that will disable a workstation or software after a pre- determined time interval during which the workstation or software is inactive. The system shall include provisions to ensure that no in-process data or work is lost if a software is automatically logged off.

(k) All software shall have a standard password-protected screensaver.

(l) Software and workstation screensavers shall be configured to activate when not in use for a configurable period of time (as per IEBC policy). Re-entry of the login information (fingerprint scan or user ID + password) shall be required to regain access to the workstation or software.

(m) Users shall not be able to install other screensavers or wallpaper.

(n) The system shall provide scheduled and on-demand administrative reporting including but not limited to:

1. Periodic summaries of authorized users, including individual permissions, user status (active or suspended) and date of last log-in.

2. Periodic password policy compliance audits.

3. Periodic security assessment audits, including unsuccessful login analysis.

4. Other specific administrative reports defined in consultation between the Commission and the selected bidder.

(q) **Access Control Provisions**

(i) The system shall provide comprehensive tools and capabilities for administration of user authorizations and system security.

(j) The system shall enable an authorized system administrator to add and remove users, to assign, modify and suspend access privileges for any user or group of users (e.g., Registration Officers, administrators etc.), and to reset passwords.

(k) All system software shall restrict each user's access to the application, maintenance and operating system functions of the software and the system applications, according to each user's specific access authorizations.

(l) Access to each principal function and capability to perform database inquiries and updates shall be limited to authorized users and system administrators.

(m) The system shall support the assignment of specific access privileges for each user and shall enable the limitation of access to only those functions required by the user to perform his/her assigned tasks.

(n) Access to system functions shall be controlled by individual operator log-on identification, whether at a central software or a remote site. Login access shall be controlled with a

unique user login name plus password.

(o) In production operations, generic user IDs and/or passwords for any component shall not be permitted.

(p) The system shall support strong password authentication and enforce associated password policies:

(q) The system shall enforce the Commission policy for password formats and contents, including minimum 8-character passwords using mixed upper and lower case letters, numeric digits and special characters, and prohibiting use of dictionary words, etc., in accordance with IEBC ICT Policy guidelines.

(r) The system shall enforce the Commission policy requiring periodic password changes for all users and prohibiting re-use of passwords for 10 cycles.

(s) The system shall log all successful logons/logoffs and all unsuccessful logon attempts.

(t) The system to have multi-factor authentication functionality

(u) The system shall enforce a maximum number of unsuccessful logon attempts, such that when this limit is reached, the logon ID shall be automatically disabled and require intervention of an authorized supervisor or administrator to re-enable the user's access rights. The system shall enable an authorized system administrator to establish and update the "maximum unsuccessful logon attempts" parameter.

ii) Management Reporting

(i) The management reporting system must have the capability to integrate the Commission's existing business intelligence systems.

(j) The system shall provide the capability to generate statistical analysis and system activity reports, including standard pre-defined management reports and special reports based on user-defined ad-hoc queries.

(k) The initial delivery of the system shall include a comprehensive set of standard catalogued management reports that will be produced by the system on a regular recurring basis. Full reporting capabilities shall be provided with the initial operational capability delivery of the system. The selected bidder shall work closely with IEBC to define all details of the standard management reports (report types, content, frequency, routing, etc.) to be implemented in and delivered with the initial system configuration. Such reports include:

- Total number of voters (grouped at all levels national, county, constituency, ward, polling station etc.)
- Gender statistics per electoral unit at all levels (national, county, constituency, ward, polling station etc.)
- Age distribution reports per electoral unit at all levels
- Exceptional register (double registered etc.) per electoral unit at all levels

(l) A capability shall be provided that enables a system administrator to establish regular

reporting schedules for each type of report, and that produces the reports according to the pre-defined schedules.

(m) The system shall enable an administrator to selectively generate any standard report on- demand under operator control and this shall not affect the established automatic production schedule for the report.

(n) The standard report generation capability shall include interactive controls that enable an operator to selectively enter filtering parameters such as constituency, polling station and date range to generate specific reports.

(o) Standard reports shall be able to be automatically routed according to a pre-set distribution list, or routed under operator control to designated network software and/or network printers.

3. **Database Statistics reports:**

i. The system shall provide standard pre-defined reports for reporting database content statistics, including:
   c. Record counts by record type, originator, record date, etc.
   d. Record counts and statistics for complete and incomplete records.

ii. The system shall provide standard pre-defined reports for reporting database activity for a user selected time period, including:
   d. Record adds, changes and purges for a selected record type or a selected record.
   e. Database audits and integrity checks.
   f. Backup activity, status, and media usage for a selected date or time period.

4. **System Transaction Activity Reports**

1. The system shall provide the capability to access transaction logs and to develop standard pre-defined reports for reporting:

2. System transaction activity during a specified time period, including:

   a) Transaction counts by transaction type, originator, time-of-day and day-of week, etc.

   b) Processing statistics for automated and manual processing and rejected transactions, by transaction type, originator, etc.

   c) System operations, including downtime and error incident counts and statistics.

   d) Transaction, logon and security audits.

3. System throughput and response time statistics during a specified time period, including:

   a) System backlog report by transaction type, time-of-day and day-of-week, etc.

   b) Fully automated input, processing and closure statistics, by transaction type, originator, and result.

   c) Manual process throughput and timing statistics by record type and operator ID.

4. Identification operations statistics during a specified time period, including:

i. Fingerprint detail, quality statistics, submission rates, closure rates and end-to-end processing times by record type and originator.

ii. Unsolved latent statistics, latent search counts, end-to-end processing times and hit rates against fingerprint records and unsolved latent by operator ID and location.

iii. Manual process throughput and timing statistics by record type and operator ID.

iv. Latent case processing and results report for a specific latent case, including case information, examiner identification, original and edited latent images, search results, and identification results.

5. **Ad-Hoc Reporting**

1. The delivered system capabilities shall include a capability to generate ad-hoc reports.

2. The ad-hoc reporting capability shall be able to access all elements of all system databases and activity logs, including archived logs as necessary, for the compilation of report information.

3. The ad-hoc reporting capability shall include the capability to enable a system administrator to catalogue frequently used ad-hoc reports and add them as scheduled or on-demand standard reports.

4. Bidders shall provide a comprehensive description of their proposed solution, and explicitly describe any limitations of the ad-hoc reporting capabilities.

6. **System Backup**

1. The proposed solution shouldbe capable of backing up the data at defined periods on external media or remote locations. Both manual and automated unattended backups should be possible from the system including backup /recovery cycle testing or simulation.

7. **Data Versioning and Audit Trail**

1. The system must include in-built and comprehensive voter records versioning, auditing and audit trail features including facility to monitor system usage both online and in hard copy, showing data modifications activity by:

a) user id

b) application/module

c) field altered

d) terminal

e) date/time

f) Activity audit trail of critical changes

2. This facility must keep a record of all deletions, updates and additions to the voters' database and associated table at all times for archiving and retrieval.

E. Data Migration

The bidder, shall undertake the following

1. Submit a compressive data migration plan with deliverables and timelines as part of the bid document.
2. Migrate the existing register of voters' data into the new system within six (6) weeks upon contract signing.

1.9.2.TECHNICAL SPECIFICATIONS FOR BIOMETRIC VOTER IDENTIFICATION (BVI) AND VERIFICATION (BVV)

H) BVI – Front End Application

For purpose of identification and verification of voters at the polling station as per the electoral law, the system should:

1. Authenticate and securely identify voters biometrically on the polling day using either fingerprint, facial or iris recognition.
2. Allow an alternative search other than fingerprint, facial image, iris or other unique identifier. Provide an option for assisted search for voter data if necessary.
3. Provide a statistics summary report of:

i. Election type

ii. Polling status (closed/open)

iii. Polling opening date and time

iv. Polling centre name

v. Polling station code

vi. Total number of registered voters

vii. Total number of authenticated voters

viii. Total number of voters authorized by PO

ix. Voter turnout (percentage)

x. Device power status

xi. Serial number of device

4. Generate reports on polling day activities. Provide capability to display the time, polling station identification data, status during election day and the number of voters processed during normal voting period as well as extended voting period (voters who are on the queue after polling station closed).

5. Ability to redirect voters to the correct polling station.

6. The register of voters (PDF) are embedded with a polling station QR code that ties a given register of a particular polling station to a given kit on Election Day. The QR code is used to open the EVI application for the polling station at the beginning of polling.

7. Each kit should hold biometric details of voters for a pre-defined zone and should restrict to biometric details of a polling station.

8. Must integrate with an MRZ identification code capture system and must be capable of reading the national ID card. (second generation, Maisha cards as complementary to biometric)

9. The system should be able to display biographic data and voting status of the voter on the polling day.

10. Provide ability to start and close a polling period.

11. Once the polling period has closed, the system should not allow identification of any more voters.

12. Closing of the polling station is not allowed during normal voting period, however Emergency closing of polling period should be allowed in the KIEMs kit with a justification. (as guided by Elections Act Section 55)

13. The system should provide a report with the following details.

    i. Voter turn-out

    ii. Voter identification details

    iii. Polling period opening and closing

    iv. Audit trail logs

14. Ability to periodically generate and transmit voter identification logs from all gazetted polling stations locations to the BVI back end system.

I) Biometric Voter Identification – Back End System

The BVI backend system must be integrated with Biometric voter registration system and should have tools to enable IEBC staff to perform the following: -

1. Extract the register of voters (Biometric and Alphanumeric) from BVR system per elective area such as County, Constituency, county assembly ward, Polling Centre and Polling station onto SD

cards or any other solution the vendor may use to achieve the same.

2. Configure the KIEMS kits with voter's data for purposes of identification for polling day for By-elections, general elections, referendum and external elections.

3. Ability to remotely configure, update, monitor, disable, wipe the BVI application software or settings on the device.

4. Generate verifiable read-only logs for the voting day activities.

5. The system should provide the following reports filtered by electoral areas:

   i. Periodic Voter turn-out report

   ii. Voter identification report

   iii. Voting day statistics

   iv. Voter turnout aggregated report by gender, Age and disability

   v. Returning officer report on Polling station opening and closing time

   vi. Blacklisted and whitelisted devices.

6. The BVI central system should have functionality for generating a unique digital certificate for each kit deployed. This digital certificate shall authenticate the identification logs received.

7. Ability to whitelist and blacklist devices based on unique hardware identity.

1.9.3. TECHNICAL SPECIFICATIONS FOR RESULTS TRANSMISSION MODULE

There shall be a Result Transmission System (RTS) as part/module of KIEMS. The system should enable the management of election results in a transparent, secure and efficient manner. The system should have the following capabilities.

A) RTS Front-End Application

1. The Elections act requires the Commission to electronically transmit presidential results in the prescribed form (image) from the polling station. The supplied system should be configurable to transmit results for one or more elective positions.

2. The QR code for RTS is used for opening the results transmission application and thus enabling the device to transmit election results at the end of polling.

3. Have the capability to scan election results forms and transmit to a central server for storage and allow for publication to an online portal.

4. The order of the fields on the RTS application should be the same as the order on the statutory results form.

5. The image capture/ scanning of the results should be of the best quality.

6. Provide validation of data entered as prescribed by the Commission

7. Have the capability to generate digital signatures of the results from the polling station and the digital signature should be embedded on the scanned results form.
8. Ability to download software updates and easily configure the RTS Front end application.
9. Ability to specify the electoral area (Using QR code)
10. The application should have an interface to authenticate election officers.
11. The applications should be scalable to accommodate several elective positions such Presidential, Governor, County Women Representative, County Assembly Ward, National Assembly and Senate in general elections, referendum questions or any other elections.
12. The application should securely transmit the results over the telecommunication network to the RTS back-end for consolidation and publication.
13. In the event that the scanned copy of results cannot be transmitted from the polling station, the system should store the results until the network is available and then transmit.
14. In general, the application should demonstrate the following features:
    a) The system should have visibility and legibility of menus, text and graphics.
    b) The interface screens and actions buttons should be consistent.
    c) Error messages should explain how to recover from the error.
    d) Undo should be available for most actions.
    e) Actions which cannot be undone should ask for confirmation.
    f) It should be easy for the user to use the navigation keys on the application.
    g) The help should be context sensitive and fully explain how to achieve common tasks.
15. The user/training manuals and technical documentation should be provided.
16. The application shall have features and capability to transmit scanned official signed forms and send them to a central server which will be publicly accessible through a web portal. The scanned copy of the results forms should be automatically named by the system according to the polling station codes as will be prescribed by the Commission.
17. After successful transmission of results, the application must transmit all the logs for the polling day.

B) Returning Officer/ Tallying Centre Module

The tallying centre module for the returning officers should have the following capabilities.

1. Capturing of results **Form A** from the polling station at the constituency tallying centre, tabulation and display of collated results as declared by the returning officer.

2. The System should have an option for data entry capability to support transmission of vote count data as follows:

   a) When counting at the polling station is complete, the system shall open the capture function of the results per candidate. This function should be simple and very clear, to eliminate human error in the operation. At least, the application must include the following automatic verification and validation checks:

      i) Total addition of votes cast should be less or equal to voters registered at the polling station.

      ii) Total addition of rejected ballots and valid votes for candidates should be equal to total votes cast.

   b) Once the data entry is completed, the system must be able to display and save an electronic report with a summary of the information entered on the screen for verification.

3. Uploading / transmission of the declared results on form B in PDF and CSV format to the RTS backend.

4. Generation of collated text results (Form B) from polling stations at constituency level. The forms should be exported in PDF and CSV formats.

5. Generation of collated text results form (form c) from constituency level at the county and national tallying centre. The forms should be exported in PDF and CSV formats.

C) RTS Backend Application

1. This is a server side system application used to receive the transmitted results. The backend system should be able to process at least 60,000 concurrent sessions.
2. The system should integrate with the Candidate Registration Management System module and the Biometric register of voters.

3. The system should have the ability to remotely configure, update, monitor, disable, wipe the RTS application software or settings on the device.

4. The systems shall be able to display the transmitted results from approximately 60,000 polling stations.

5. The system should have a user friendly import and export functionality.

6. The system should allow scalability to accommodate an increase in number of voters and/or polling stations.

7. The system should have the ability for configuring different types of elections including external elections for other institutions.

8. Servers: The commission shall provide the server infrastructure. The proposed back-end software application must be able to run on the provided infrastructure. The Commission will provide the information of the infrastructure upon request.

9. The system should have an interface for verification of results by candidate agents and independent auditors at the constituency tallying centres before publication.

10. The system should use AI or such advanced character recognition technology to recognize handwritten as well as printed text and covert to editable digital text, ICR (Intelligent Character Recognition). Using this capability, the system should be able to extract the text results from the scanned Forms 34A into a database for purposes of compilation of Forms 34B and Form 34C.

D) Telecommunications Infrastructure

Any connectivity that may be required by the acquired system shall be provided separately by the Commission via telecommunication infrastructure provided by telecommunication service provider.

E) Infrastructure for publishing Election Results Forms

The vendor shall be required to publish election results forms in a public portal as prescribed by the commission.

F) Reporting

1. The solution shall provide tabular and graphical chart display of the results data at the tallying centre (the commission to provide the format).

2. The solution shall have the functionality to generate customized and ad-hoc reports as will be prescribed by the Commission.

3. In addition to the transmission of results, the application should also be capable of providing regular reports on voting day events: -

    a) Opening and closing of polling stations.

    b) Periodic voter turnout.

4. The solution shall be able to publish the election results to IEBC portal which will be accessible to the public for displaying election results i.e. scanned statutory forms (form 34 to form 38).

G) Controls

1. Provide granular, role based user rights management where rights shall be assigned to a role and users shall be assigned to a role.

2. Provide end-to-end multi-layer application level security for user authentication and authorization

3. Provide tamper-proof logs for all activities and alerts on every transactional event

4. The application should have the ability to encrypt and use digital signatures on all data transmitted. No data will be transmitted in clear text.

5. The central administration of these certificates should make it possible for administrators to revoke certificates on rogue hardware.

6. The following system security information should be available on the kit

    a) Hardware IMEI

    b) SIM card IMEI and Serial Number

    c) Hardware MAC Address
    d) Election official handwritten signature for audit purposes

    e) Polling Station name and code

    f) The system should provide tamper-proof logs for ensuring a strong auditing process of the reported results.

1.9.4. SYSTEM SECURITY REQUIREMENTS

The application should comply with the ISO IEC 17799 and ISO 27001/2022 standards on Access Control and the use of both authentication and authorization. The system should ensure confidentiality, availability, reliability and integrity of data at the different stages of elections management and in particular voter registration, voter identification, candidate registration and elections results management. In addition to other security controls defined elsewhere in the technical specification, the following are critical security considerations for the system:

1. The system must include a user authentication mechanism that prevents unauthorized persons from accessing the system.

2. The system should provide alerts on key system functions (opening/closing, voter identified correctly, misidentification). The alerts should be clear and visual to minimize errors by the user.

3. The system should ensure traceability of election officials' operational activities on the system.

4. The upload of voters' biographical and biometric information must be performed in compliance with the highest standards of security and confidentiality.

5. It is desirable that the entire flow of information is performed through a single suite of applications with a single layer of security and an auditable registration system and verifiable events.

6. The technical documentation, testing documentation, and quality assurance documentations of the system must be provided.

7. The system should enable secure storage of system logs.

8. The system must have a self-test function that allows the user to check the readiness for use

of the equipment before the opening of the polling station and ensure that the data stored in the system corresponds with the appropriate polling station.

9. All applications should have the ability to use strong encryption and also digitally sign all data transmitted. No data will be transmitted in clear text.

10. The central administration should enforce use of digital certificates for any data

11. Transmitted across the network and should make it possible for administrators to revoke certificates of rogue end user devices/Kits.

TECHNICAL SUPPORT DURING ELECTORAL ACTIVITIES (BY ELECTIONS, REFERENDA AND GENERAL ELECTIONS)

The Commission may require second level technical support services on case by case basis and "as and when required" during the electoral activities that may include by-elections, referenda and or General Elections. During these activities, the vendor may be called upon to provide the following services and/or goods. The support services shall be billed on a time and material basis.

1. Provide corrective and/or preventive software maintenance to ensure effective performance of the software.
2. Supply and delivery of additional KIEM kits and accessories to replace faulty or missing components that includes power banks, SD cards, packaging , Security seals among others.
3. Provide second level technical support before, during and after the electoral activity.
4. Provide software upgrades to address emerging needs of the Commission without impacting on the entire system architecture.

1.9.5. PROJECT MANAGEMENT

The bidder shall be required to provide a detailed project plan covering the entire period from project planning and design, project initiation, project management until the project closure indicating key milestones which shall be measurable and pegged to deliverables.

The entire project scope in this tender shall include the three (3) phases below. The vendor shall provide a detailed project implementation roadmap covering the following phases:

1. Delivery, installation, configuration, testing and commissioning of the KIEMS software.

The plan shall address the following aspects:

i. Configuration of the devices at the Election Technology Centre (ETC) for delivery by IEBC to the Counties and Constituencies.

ii. Installation, configuration and testing the KIEMS system with responsibility matrix.

iii. Systems Integration, configuration, customization, and change management.

iv. Data export from the central system and import onto all the Voter Identification Software indicating the timelines, infrastructure or other components required.

v. User Acceptance Testing and quality assurance plan.

vi. The commission will carry out a joint inspection and testing with the supplier to confirm that the system is in a working condition.

2. Election Period support for the supplied solution.

The plan shall address the following aspects**:**

i. Integrated system setup and configuration to ensure that the right data is copied accurately to the correct hardware for the respective polling station.

ii. Proposed data preparation, data conversion, and data migration and testing processes prior to the Election Day.

iii. Data migration approach (centralized or distributed).

iv. Training and testing plan

v. Integrated system and implemented deployment process to ensure that the right hardware goes to the right polling station.

vi. System access and security management.

vii. Reliability and availability management.

viii. Election Day diagnostics and support.

ix. Systems backup and support in case of failure of primary hardware.

x. System stress test and load testing.

3. Post-election support and maintenance services.

The plan shall address the following aspects:

i. Support and maintenance on software provided on the hardware.

ii. Equipment Spares and timelines for replacement

iii. Warranty and equipment replacement.

iv. Service Level Standards and metrics for all kinds of incidence

v. License renewal

1.9.6. WARRANTY

In order to ensure effective and efficient use of the solution, the vendor shall be required to provide a comprehensive warranty on the hardware, software and parts. The vendor shall provide guarantee for effective and safe use of the equipment and software and shall indemnify the commission against any manufacturer’s defects, faults or unexpected system performance.

i. The system shall be covered by one (1) year manufacturer's warranty covering all elements of the system hardware and software, parts and labour beginning upon successful completion and deployment of the system

ii. The vendor shall provide an extended warranty of Two (2) years payable annually.

iii. Vendor shall perform diagnostics jointly with the IEBC technicians to identify the problem and provide repairs services or replacement of any equipment or component to restore the hardware devices and software to full operation.

iv. All repair work must be performed within five (5) days of receipt of request. However, during a 14-day period prior to the election activity, all requests for repair or replacements must be completed within 24 hours.

v. The vendor must provide software upgrades and patches when required while the system is under warranty.

vi. Equipment must be supported by the vendor and replacement parts must be available from the vendor for not less than Three (3) years after the acquisition.

1.9.7. SUPPORT AND MAINTENANCE

The bidder shall be required to provide a comprehensive plan for providing technical and operations support, preventive and remedial maintenance services for the integrated system supplied. The support and maintenance services shall cover the entire election cycle from pre-election period, election period and post-election period. The post- election support and maintenance shall cover aspect regular preventative and corrective maintenance services. The Support and maintenance services should cover a period of **Three (3) years.** The annual support and maintenance cost shall be billed on time and material basis and expressed in the price schedule.

All licenses provided by the vendor (e.g., MRZ, MDM, Power BI, SSL, Database) shall be valid for a minimum period of three (3) years. The proposal should also provide for license flexibility, allowing the Commission to negotiate and adjust the number and types of licenses required within the framework contract, based on operational needs.

Vendors shall provide the cost per voter license based on the projected **30 million voters**, clearly indicating the unit cost and the total licensing cost for the full voter base. This will enable the Commission to evaluate scalability and long-term cost implications of the proposed solution.

A. Support and Maintenance Requirements

1. Provide system support, including system configuration, system operations, database administration, reporting, system performance monitoring, back-up operations, and basic fault diagnosis and troubleshooting operations. Set up a technical support desk at the county level for providing on-site support at-least 1 days before the general Election and on the polling day.

2. Set-up an online Help desk and contact centre starting 14 days prior to the general

elections which will provide technical support during normal business hours with a four-hour response time for urgent issues, and with immediate response time on Election Day through the hotline.

3. The vendor must indicate the numbers, qualifications and certifications of their support personnel who will be deployed during the entire support and maintenance period.

4. The vendor must indicate whether any of the sub-components (hardware and software) shall require payment of any license fees over the lifetime of the solution.

5. All service and support of the System shall be provided under a comprehensive Support and Maintenance Agreement for the system. The Support and Maintenance Agreement shall provide for all of the maintenance support elements defined in the section, and the selected bidder shall be solely responsible for delivery of maintenance services under the contract.

B. Required Service Level Standards

The Service Level Agreement shall include the following specifications:

1. Help Desk Support is available in Kenya during normal business days and business hours of IEBC (8:00 am to 5:00 pm every working day 5/7).

2. When necessary the problem is escalated to the vendor. The Hotline (Help Desk) should be available from 9:00 am to 6:00 pm (GMT+3) every working day 5/7.

3. All incidents shall be logged onto the incident management system provided by the vendor throughout the contract period.

The following response and resolution time shall apply;

SN	DESCRIPTION OF INCIDENCE	SEVERITY LEVEL	RESPONSE TIME	RESOLUTION TIME
1.	Blocking incident: System is not ready, majority of users are affected or a major functionality is down.	Critical	< 2 working hours*	1 working day from time of notification**
2.	Major incident: System capacity is decreased or some users are affected.	Major	< 4 working hours*	2 working days from time of notification**

3.	Minor incident: A non-essential function is affected, minority of users are affected	Minor	< 6 working hours*	Best efforts will be made to fix the issue from the time of notification

(*) Time necessary for the registration of the incident and the issuing of the incident Ticket

number. (**) Time necessary to restore the service back to normal by workaround or fix.

NB: A monthly maintenance activity report will be provided. It will comprise notably the list and status of recorded incidents, interventions and maintenance actions undertaken.

1.9.8. TECHNICAL SKILLS/KNOWLEDGE TRANSFER AND TRAINING

i. Introduction

The selected bidder shall develop detailed skills, knowledge transfers and training plan identifying the task and milestone schedule for coordinating training requirements and delivery. The successful bidder shall follow a train-the-trainer approach.

The training plan shall provide comprehensive training in the operations and management of the system and its components, as applicable to users, supervisors, managers, and operations support personnel. Bidders shall be required to develop customized training documentation and to deliver customized training with manuals covering hardware, software, and the system functional processes for the election.

The training proposal shall cover both practical (hands-on), on-the-job and professional training on the solution. The hardware and software supplied shall be capable of supporting the training of new users without impacting production operations or the integrity of the system's identification records databases.

ii. Training Requirements

The successful bidder shall coordinate with all IEBC operational units to identify the training requirements for each group of users, supervisors, technical staff and managers, including:

a) Number of users, supervisors, and managers requiring training, and the maximum number that can be trained in each training class; Specific training to be provided in each of the general types of training classes identified in (i) above, and the estimated duration of each class.

The following types of operations and administration training shall be developed and provided for IEBC management, regional managers, administrators, and operations staff:

1. **IEBC Management Training**: A short management-level orientation presentation covering the system architecture and installation, system operations and administration, system monitoring and performance assessment, management reporting, and the roles,

responsibilities, and procedures for operations and support.

2. **System Administrators (Technical staff)**: Detailed and application-specific training for the assigned system administrators in the use of the System, Configuration Workstations, and applications, including procedures, system administration, user administration, security administration, system monitoring, reporting and loading hardware with electoral data. Multiple training courses shall be designed for system and administration roles as and when necessary.

3. **System Users**: Detailed training for designated users of each specialized type of system, including the configuration of workstations. The training shall include an overview of the system and a discussion of general operational concepts and support procedures, along with detailed classroom and hands-on training in the operation of all functions of the specific voter authentication system. Individual training courses shall be designed for each operational unit (e.g., IEBC Electoral Operations, Voter Education & Partnerships, ICT, Field Officers) and multiple training courses shall be provided as necessary to accommodate all designated trainees.

4. **Operations Managers and Supervisors**: Training for operations managers and supervisors shall include procedures for database and transaction log access, activity analysis, security management, and report generation. The training shall be designed as appropriate for each operational unit (e.g., ICT and Electoral Operations).

5. **Technical orientation training shall be provided for the designated IEBC ICT staff**. This training shall include technical descriptions and operating procedure discussions covering the ABIS data integration and migration to the Election Systems and operations, network operations, database administration, system monitoring, security management, backup and archival operations, software/firmware updates and maintenance, basic System testing, troubleshooting and fault diagnosis.

i. Training Delivery

- The selected bidder shall be responsible for all aspects of training, except for facility and resource mobilization (trainees in particular) for loading of ABIS data to the Electronic System for supervisors and administrators training
- A successful bidder shall assign a dedicated training Manager who shall be assigned to lead the planning, preparation, coordination, and delivery of training to the IEBC staff.
- The Training Manager shall work closely with IEBC's training Coordinator to ensure that IEBC policies and procedures are correctly represented in each training session.
- The training program shall be approved by the commission to ensure that the training objectives are achieved.
- The training sessions shall comprise IEBC Commissioners, management staff, regional managers, technical and operations staff.

ii. Training Courseware

- Comprehensive training courseware and associated training material shall be developed and submitted for review and approval. Any required modification or updates shall be incorporated and final courseware and material shall be delivered prior to commencement of training.
- All lesson plans, courseware and training material and videos shall be delivered in an electronic form that can be reproduced and used by IEBC in on-going training and shall become the property of the IEBC. This material shall be appropriate for use in future classroom-based training and in on-line self-directed training for new employees.
- Under the system maintenance agreement, the selected bidder shall provide updates and modifications to the courseware and training material as required. The bidder should also maintain current training material as system upgrades and changes are implemented throughout the life of the system.

iii. Scheduling and Conducting Training

- On-site training shall be provided for IEBC constituency field officers in Nairobi at central level.
- The bidder shall also cater for organize periodic technical training at the vendor's premise or preferred environment.
- The selected bidder shall develop a training delivery schedule in close coordination with the Commission.
- Each type of training identified above shall be scheduled in coordination with the IEBC and the designated department, and the final coordinated schedule shall be incorporated in the final Training Plan.
- Multiple training sessions shall be provided as required to accommodate all designated trainees.
- The table below lists the projected number of personnel in each relevant organization unit of the Commission that shall receive each type of training in association with the implementation of the BVR. The TOT training will be conducted centrally.

S/No.	CATEGORY OF STAFF	NUMBER
1.	Training on the System overview (Commission, Secretariat)	50
2.	ICT Technical Training (HQ staff and County ICT)	70
3.	ICT administrators Training	10

1.9.9. TECHNICAL KNOWLEDGE TRANSFER

1.9.9.1. The successful bidder shall be required to set up a sandbox environment for technical testing and training.

1.9.9.2. The successful bidder shall conduct full technical knowledge transfer for Commission staff covering, but not limited to, the following areas to ensure full operational control of the supplied solution:

1.9.9.2.1. System installation of BVR, EVI and RTS for both front-end and back-end functions.

1.9.9.2.2. System configuration of BVR, EVI and RTS covering applications, databases and operating systems.

1.9.9.2.3. System integration processes through either import, export or scripting.

1.9.9.2.4. Data validation, verification and quality control processes.

1.9.9.2.5. Security configurations and controls for BVR, EVI and RTS applications and databases.

1.9.9.2.6. Network configurations for BVR, EVI and RTS.

1.9.9.2.7. System administration and monitoring tools for BVR, EVI and RTS.

1.9.9.2.8. System support and troubleshooting tools of BVR, EVI and RTS.

1.9.9.2.9. Report extraction and generation tools for BVR, EVI and RTS.

1.9.9.2.10. Business intelligence for report generation.

1.9.9.2.11. Handover:

1.9.9.3. Failure to deliver full knowledge transfer by the vendor will be considered breach of obligation and Commission shall be at liberty to take any action that may be deemed necessary.

1.9.9.4. The knowledge transfer shall be delivered to the following staff;

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

Section VI - General Conditions of Contract

General Conditions of Contract

A. CONTRACT AND INTERPRETATION

1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated below.

a) Contract Elements

i) "Contract" means the Contract Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to therein. The Contract Agreement and the Contract Documents shall constitute the Contract, and the term "the Contract" shall in all such documents be construed accordingly.

ii) "Contract Documents" means the documents specified in Article1.1(Contract Documents) of the Contract Agreement (including any amendments to these Documents).

iii) "Contract Agreement" means the agreement entered into between the Procuring Entity and the Supplier using the form of Contract Agreement contained in the Sample Contractual Forms Section of the tender documents and any modifications to this form agreed to by the Procuring Entity and the Supplier. The date of the Contract Agreement shall be recorded in the signed form.

iv) "GCC" means the General Conditions of Contract.

v) "SCC" means the Special Conditions of Contract.

vi) "Technical Requirements" means the Technical Requirements in Section VII of the tendering documents.

vii) "Implementation Schedule" means the Implementation Schedule in Section VII of the tendering documents.

viii) "Contract Price" means the price or prices defined in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.

ix) "Procurement Regulations" refers to the Regulations issued under the Public Procurement and Asset Disposal Act (2015).

x) "tendering documents" refers to the collection of documents issued by the Procuring Entity to instruct and inform potential suppliers of the processes for tendering, selection of the winning tender, and Contract formation, as well as the contractual conditions governing the relationship between the Procuring Entity and the Supplier. The General and Special Conditions of Contract, the Technical Requirements, and all other documents included in the tendering documents reflect the Procurement Regulations that the Procuring Entity is obligated to follow during procurement and administration of this Contract.

b) Entities

i) "Procuring Entity" means the entity purchasing the Information System, as **specified in the SCC.**

ii) "Project Manager" means the person **named as such in the SCC** or otherwise appointed by the Procuring Entity in the manner provided in GCC Clause 18.1 (Project Manager) to perform the duties delegated by the Procuring Entity.

iii) "Supplier" means the firm or Joint Venture whose tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

iv) "Supplier's Representative" means any person nominated by the Supplier and named as such in the Contract Agreement or otherwise approved by the Procuring Entity in the manner provided in GCC Clause18.2 (Supplier's Representative) to perform the duties delegated by the Supplier.

v) "Subcontractor" means any firm to whom any of the obligations of the Supplier, including preparation of any design or supply of any Information Technologies or other Goods or Services, is sub contracted directly or indirectly by the Supplier.

vi) "Adjudicator" means the person named in Appendix 2 of the Contract Agreement, appointed by agreement between the Procuring Entity and the Supplier to make a decision on or to settle any Dispute between the Procuring Entity and the Supplier referred to him or her by the parties, pursuant to GCC Clause 43.1 (Adjudication).

c) Scope

Dispute between the Procuring Entity and the Supplier referred to him or her by the parties, pursuant to GCC Clause 43.1 (Adjudication).

i) "Information System," also called "the System," means all the Information Technologies, Materials, and other Goods to be supplied, installed, integrated, and made operational (exclusive of the Supplier's Equipment), together with the Services to be carried out by the Supplier under the Contract.

ii) "Subsystem" means any subset of the System identified as such in the Contract that may be supplied, installed, tested, and commissioned individually before Commissioning of the entire System.

iii) "Information Technologies" means all information processing and communications-related hardware, Software, supplies, and consumable items that the Supplier is required to supply and install under the Contract.

iv) "Goods" means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, the Information Technologies and Materials, but excluding the Supplier's Equipment.

v) "Services" means all technical, logistical, management, and any other Services to be provided by the Supplier under the Contract to supply, install, customize, integrate, and make operational the System. Such Services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, installation, integration, training, data migration, Pre-commissioning, Commissioning, maintenance, and technical support.

vi) "The Project Plan" means the document to be developed by the Supplier and approved by the Procuring Entity, pursuant to GCC Clause 19, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier's tender. The "Agreed Project Plan" is the version of the Project Plan approved by the Procuring Entity, in accordance with GCC Clause 19.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.

vii) "Software" means that part of the System which are instructions that cause information processing Sub systems to perform in a specific manner or execute specific operations.

viii) "System Software" means Software that provides the operating and management instructions for the underlying hardware and other components, and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Systems Software. Such System Software includes, but is not restricted to, micro-code embedded in hardware (i.e., "firmware"), operating systems, communications, system and network management, and utility software.

ix) "General-Purpose Software" means Software that supports general-purpose office and software development activities and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be General-Purpose Software. Such General-Purpose Software may include, but is not restricted to, word processing, spreadsheet, generic database management, and application development software.

x) "Application Software" means Software formulated to perform specific business or technical functions and interface with the business or technical users of the System and is identified as such in Appendix4 of the Contract Agreement and such other Software as the parties may agree in writing to be Application Software.

xi) "Standard Software" means Software identified as such in Appendix 4 of the Contract Agreement

and such other Software as the parties may agree in writing to be Standard Software.

xii) "Custom Software" means Software identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Custom Software.

xiii) "Source Code" means the database structures, dictionaries, definitions, program source files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Software (typically, but not exclusively, required for Custom Software).

xiv) "Materials" means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the Procuring Entity under the Contract.

xv) "Standard Materials" means all Materials not specified as Custom Materials.

xvi) "Custom Materials" means Materials developed by the Supplier at the Procuring Entity's expense under the Contract and identified as such in Appendix 5 of the Contract Agreement and such other Materials as the parties may agree in writing to be Custom Materials. Custom Materials includes Materials created from Standard Materials.

xvii) "Intellectual Property Rights" means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extractor re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sub license, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter in to computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

xviii) "Supplier's Equipment" means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the System that are to be provided by the Supplier, but excluding the Information Technologies, or other items forming part of the System.

d) Activities

i) "Delivery" means the transfer of the Goods from the Supplier to the Procuring Entity in accordance with the current edition Incoterms specified in the Contract.

ii) "Installation" means that the System or a Subsystem as specified in the Contract is ready for Commissioning as provided in GCC Clause 26 (Installation).

iii) "Pre-commissioning" means the testing, checking, and any other required activity that may be specified in the Technical Requirements that are to be carried out by the Supplier in preparation for Commissioning of the System as provided in GCC Clause 26 (Installation).

iv) "Commissioning" means operation of the System or any Subsystem by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause27.1 (Commissioning), for the purpose of carrying out Operational Acceptance Test (s).

v) "Operational Acceptance Tests" means the tests specified in the Technical Requirements and Agreed Project Plan to be carried out to ascertain whether the System, or a specified Sub system, is able to attain the functional and performance requirements specified in the Technical Requirements and Agreed Project Plan, in accordance with the provisions of GCC Clause 27.2 (Operational Acceptance Test).

vi) "Operational Acceptance" means the acceptance by the Procuring Entity of the System (or any Subsystem(s) where the Contract provides for acceptance of the System in parts), in accordance with GCC Clause27.3(Operational Acceptance).

e) Place and Time

i) "Supplier's Country" is the country in which the Supplier is legally organized, as named in the Contract Agreement.

ii) Unless otherwise specified in the SCC "Project Site (s)" means the place (s) in the Site Table in the Technical Requirements Section for the supply and installation of the System.

iii) "Eligible Country" means the countries and territories eligible for participation in procurements.

iv) "Day" means calendar day of the Gregorian Calendar.

v) "Week" means seven (7) consecutive Days, beginning the day of the week as is customary in Kenya.

vi) "Month" means calendar month of the Gregorian Calendar.

vii) "Year" means twelve (12) consecutive Months.

viii) "Effective Date" means the date of fulfillment of all conditions specified in Article 3 (Effective Date for Determining Time for Achieving Operational Acceptance) of the Contract Agreement, for the purpose of determining the Delivery, Installation, and Operational Acceptance dates for the System or Sub system(s).

ix) "Contract Period" is the time period during which this Contract governs the relations and obligations of the Procuring Entity and Supplier in relation to the System, as unless otherwise specified in the SCC, the Contract shall continue in force until the Information System and all the Services have been provided, unless the Contract is terminated earlier in accordance with the terms set out in the Contract.

x) "Defect Liability Period" (also referred to as the "Warranty Period") means the period of validity of the warranties given by the Supplier commencing at date of the Operational Acceptance Certificate of the System or Sub system(s), during which the Supplier is responsible for defects with respect to the System (or the relevant Sub-system[s]) as provided in GCC Clause 29 (Defect Liability).

xi) "The Coverage Period" means the Days of the Week and the hours of those Days during which maintenance, operational, and/ or technical support services (if any) must be available.

xii) The Post-Warranty Services Period" means the number of years defined in the SCC (if any), following the expiration of the Warranty Period during which the Supplier may be obligated to provide Software licenses, maintenance, and/ or technical support services for the System, either under this Contractor under separate contract(s).

2. **Contract Documents**

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.

3. Interpretation

3.1 Governing Language

3.1.1 All Contract Documents and related correspondence exchanged between Procuring Entity and Supplier shall be written in the English Language of these tendering documents, and the Contract shall be construed and interpreted in accordance with that language.

3.1.2 If any of the Contract Documents or related correspondence are prepared in a language other than the English Language under GCC Clause 3.1.1 above, the translation of such documents into the English language shall prevail in matters of interpretation. The originating party, with respect to such documents shall bear the costs and risks of such translation.

3.2 Singular and Plural The singular shall include the plural and the plural the singular, except where the context otherwise requires.

3.3 Headings

The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.

3.4 Persons

Words importing persons or parties shall include firms, corporations, and government entities.

3.5 Incoterms

Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by the Incoterms.

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.

3.6 Entire Agreement

The Contract constitutes the entire agreement between the Procuring Entity and Supplier with respect to the subject matter of Contract and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect to the subject matter of the Contract made prior to the date of Contract.

3.7 Amendment

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

3.8 Independent Supplier

The Supplier shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract.

Subject to the provisions of the Contract, the Supplier shall be solely responsible for the manner in which the Contract is performed. All employees, representatives, or Sub contractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Procuring Entity, and nothing contained in the Contractor in any sub contract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Sub contractors and the Procuring Entity.

3.9 Joint Venture

If the Supplier is a Joint Venture of two or more firms, all such firms shall be jointly and severally bound to the Procuring Entity for the fulfillment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the Joint Venture. The composition or constitution of the Joint Venture shall not be altered without the prior consent of the Procuring Entity.

3.10 Non-waiver

3.10.1 Subject to GCC Clause 3.10.2 below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contractor the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.10.2 Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.11 Severability

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

3.12 Country of Origin

“Origin” means the place where the Information Technologies, Materials, and other Goods for the System were produced or from which the Services are supplied. Goods are produced when, through manufacturing, processing, Software development, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components. The Origin of Goods and Services is distinct from the nationality of the Supplier and may be different.

4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing and shall be sent, pursuant to GCC Clause 4.3 below, by personal delivery, air mail post, special courier, facsimile, electronic mail, or Electronic Data Interchange (EDI), with the following provisions.

4.1.1 Any notice sent by facsimile, electronic mail, or EDI shall be confirmed within two (2) days after dispatch by notice sent by air mail post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by air mail post or special courier shall be deemed (in the absence of evidence of earlier

receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped, and conveyed to the postal authorities or courier service for transmission by air mail or special courier.

4.1.3 Any notice delivered personally or sent by facsimile, electronic mail, or EDI shall be deemed to have been delivered on the date of its dispatch.

4.1.4 Either party may change its postal, facsimile, electronic mail, or EDI addresses for receipt of such notices by ten (10) days' notice to the other party in writing.

4.2 Notices shall be deemed to include any approvals, consents, instructions, orders, certificates, information and other communication to be given under the Contract.

4.3 Pursuant to GCC Clause 18, notices from/to the Procuring Entity are normally given by, or addressed to, the Project Manager, while notices from/to the Supplier are normally given by, or addressed to, the Supplier's Representative, or in its absence its deputy if any. If there is no appointed Project Manager or Supplier's Representative (or deputy), or if their related authority is limited by the SCC for GCC Clauses 18.1 or 18.2.2, or for any other reason, the Procuring Entity or Supplier may give and receive notices at their fall back addresses. The address of the Project Manager and the fall back address of the Procuring Entity are as specified in the SCC or as subsequently established/ amended. The address of the Supplier's Representative and the fall back address of the Supplier are as specified in Appendix 1 of the Contract Agreement or as subsequently established/amended.

5. Governing Law

5.1 The Contract shall be governed by and interpreted in accordance with the laws of Kenya.

5.2 Throughout the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in Kenya when

a) As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

6 Fraud and Corruption

6.1 The Procuring Entity requires compliance with the laws of Kenya on Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in its statutes.

6.2 The Procuring Entity requires the Suppliers to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

B. SUBJECT MATTER OF CONTRACT

7 Scope of the System

7.1 Unless otherwise expressly limited in the SCC or Technical Requirements, the Supplier's obligations cover the provision fall Information Technologies, Materials and other Goods as well as the performance of all Services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the System, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the Contract and the Agreed Project Plan.

7.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the System as if such work and/or items and Materials were expressly mentioned in the Contract.

7.3 The Supplier's obligations (if any) to provide Goods and Services as implied by the Recurrent Cost tables of the Supplier's tender, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and operational support), areas specified in the SCC, including the relevant terms, characteristics, and timings.

8 Time for Commencement and Operational Acceptance

8.1 The Supplier shall commence work on the System with in the period specified in the SCC, and without prejudice to GCC Clause 28.2, the Supplier shall there after proceed with the System in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan.

8.2 The Supplier shall achieve Operational Acceptance of the System (or Subsystem(s) where a separate time for Operational Acceptance of such Sub system (s) is specified in the Contract) in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

9 Supplier's Responsibilities

9.1 The Supplier shall conduct all activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, support, maintenance, training, and other related services, or in accordance with best industry practices. In particular, the Supplier shall provide and employ only technical personnel who are skilled and experienced in the irrespective callings and supervisory staff who are competent to adequately supervise the work at hand.

9.2 The Supplier confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Procuring Entity and on the basis of information that the Supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Supplier relating to the System as at the date twenty-eight (28) days prior to tender submission. The Supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.

9.3 The Supplier shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed Project Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision-making may constitute grounds for termination pursuant to GCC Clause 41.2.

9.4 The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in Kenya that are necessary for the performance of the Contract, including, without limitation, visas for the Supplier's and Subcontractor's personnel and entry permits for all imported Supplier's Equipment. The Supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Procuring Entity under GCC Clause 10.4 and that are necessary for the performance of the Contract.

9.5 The Supplier shall comply with all laws in force in Kenya. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Procuring Entity from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature a rising or resulting from the violation of such laws by the Supplier or its personnel, including the Sub contractors and their personnel, but without prejudice to GCC Clause 10.1. The Supplier shall not indemnify the Procuring Entity to the extent that such liability, damage, claims, fines, penalties, and expenses were caused or contributed to by a fault of the Procuring Entity.

9.6 The Supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.

9.7 Any Information Technologies or other Goods and Services that will be incorporated in or be required for the System and other supplies shall have their Origin, as defined in GCC Clause 3.12, in a country that shall be an Eligible Country, as defined in GCC Clause 1.1 (e) (iv).

9.8 Pursuant to paragraph 2.2e. of Appendix B to the General Conditions the Supplier shall permit and shall cause its subcontractors and sub-consultants to permit, the PPRA and/or persons appointed by the PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Supplier's and its Sub contractors' and sub-consultants' attention is drawn to Sub-Clause 6.1 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of in eligibility pursuant to the PPRA's prevailing sanctions procedures).

9.9 The Supplier shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

9.10 Unless otherwise specified in the SCC the Supplier shall have no other Supplier responsibilities.

10 Procuring Entity's Responsibilities

10.1 The Procuring Entity shall ensure the accuracy of all information and/or data to be supplied by the Procuring Entity to the Supplier, except when otherwise expressly stated in the Contract.

10.2 The Procuring Entity shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed Project Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision making may constitute grounds for Termination pursuant to GCC Clause 41.3.1(b).

10.3 The Procuring Entity shall be responsible for acquiring and providing legal and physical possession of the site and access to it, and for providing possession of and access to all other are as reasonably required for the proper execution of the Contract.

10.4 If requested by the Supplier, the Procuring Entity shall use its best endeavors to assist the Supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the Contract from all local, state, or national government authorities or public service undertakings that such authorities or under takings require the Supplier or Sub contractors or the personnel of the Supplier or Sub contractors, as the case may be, to obtain.

10.5 In such cases where the responsibilities of specifying and acquiring or upgrading telecommunications and/or electric power services falls to the Supplier, as specified in the Technical Requirements, SCC, Agreed Project Plan, or other parts of the Contract, the Procuring Entity shall use its best endeavors to assist the Supplier in obtaining such services in a timely and expeditious manner.

10.6 The Procuring Entity shall be responsible for timely provision of all resources, access, and information necessary for the Installation and Operational Acceptance of the System (including, but not limited to, any required telecommunications or electric power services), as identified in the Agreed Project Plan, except where provision of such items is explicitly identified in the Contract as being the responsibility of the Supplier. Delay by the Procuring Entity may result in an appropriate extension of the Time for Operational Acceptance, at the Supplier's discretion.

10.7 Unless otherwise specified in the Contractor agreed upon by the Procuring Entity and the Supplier, the Procuring Entity shall provide sufficient, properly qualified operating and technical personnel, as required by the Supplier to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Implementation Schedule and the Agreed Project Plan.

10.8 The Procuring Entity will designate appropriate staff for the training courses to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, SCC, the Agreed Project Plan, or other parts of the Contract.

10.9 The Procuring Entity assumes primary responsibility for the Operational Acceptance Test (s) for the System, in accordance with GCC Clause 27.2, and shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in anyway the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.

10.10 The Procuring Entity is responsible for performing and safely storing timely and regular backups of its data and Software in accordance with accepted data management principles, except where such responsibility is clearly assigned to the Supplier elsewhere in the Contract.

10.11 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Procuring Entity, save those to be incurred by the Supplier with respect to the performance of the Operational Acceptance Test (s), in accordance with GCC Clause 27.2.

10.12 Unless otherwise specified in the SCC the Procuring Entity shall have no other Procuring Entity responsibilities.

C. Payment

11 Contract Price

11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Contract

Agreement.

11.2 Unless an adjustment clause is provided for in the SCC, the Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a Change in the System pursuant to GCC Clause 39 or to other clauses in the Contract;

11.3 The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

11.4 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: (corrected tender price–tender price)/ tender price X 100.

12 Terms of Payment

12.1 The Supplier's request for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the System or Subsystem(s), Delivered, Pre-commissioned, Installed, and Operationally Accepted, and by documents submitted pursuant to GCC Clause 22.5 and upon fulfillment of other obligations stipulated in the Contract. The Contract Price shall be paid as specified in the SCC.

12.2 No payment made by the Procuring Entity herein shall be deemed to constitute acceptance by the Procuring Entity of the System or any Sub system (s).

12.3 Payments shall be made promptly by the Procuring Entity, but in no case later than (sixty (60) days after submission of a valid invoice and upon satisfactorily performance of the contractual obligations by the Supplier. In the event that the Procuring Entity fails to make any payment by its respective due date or within the period set forth in the Contract, the Procuring Entity shall pay to the Supplier interest on the amount of such delayed payment at the rate (s) specified in the SCC for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.

12.4 Payments shall be made in the currency (ies) specified in the Contract Agreement, pursuant to GCC Clause 11. For Goods and Services supplied locally, payments shall be made as specified in the SCC.

12.5 Unless otherwise specified in the SCC, payment of the foreign currency portion of the Contract Price for Goods supplied from outside Kenya shall be made to the Supplier through an irrevocable Form of credit opened by an authorized bank in the Supplier's Country and will be payable on presentation of the appropriate documents. It is agreed that the Form of credit will be subject to Article10 of the latest revision of Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, Paris.

13 Securities

13.1 Issuance of Securities

The Supplier shall provide the securities specified below in favor of the Procuring Entity at the times and in the amount, manner, and form specified below.

13.2 Advance Payment Security

a) Unless otherwise specified in the SCC, the Supplier shall provide within twenty-eight (28) days of the notification of Contract award an Advance Payment Security in the amount and currency of the Advance Payment specified in SCC for GCC Clause 12.1 above and valid until the System is Operationally Accepted.

b) The security shall be in the form provided in the tendering documents or in another form acceptable to the Procuring Entity. The amount of the security shall be reduced in proportion to the value of the System executed by and paid to the Supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Procuring Entity. Unless otherwise specified in the SCC, the reduction in value and expiration of the Advance Payment Security are calculated as follows:

P*a/(100-a), where “P” is the sum of all payments effected so far to the Supplier (excluding the Advance Payment), and “a” is the Advance Payment expressed as a percentage of the Contract Price pursuant to the SCC for GCC Clause12.1.

The security shall be returned to the Supplier immediately after its expiration.

13.3 Performance Security

13.3.1 The Supplier shall, within twenty-eight (28) days of the notification of Contract award, provide a security for the due performance of the Contract in the amount and currency specified in the SCC.

13.3.2 The security shall be a bank guarantee in the form provided in the Sample Contractual Forms Section of the tendering documents, or it shall be in another form acceptable to the Procuring Entity.

13.3.3 The security shall automatically become null and void once all the obligations of the Supplier under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Supplier no later than twenty-eight (28) days after its expiration.

13.3.4 Upon Operational Acceptance of the entire System, the security shall be reduced to the amount specified in the SCC, on the date of the Operational Acceptance, so that the reduced security would only cover the remaining warranty obligations of the Supplier.

14 Taxes and Duties

14.1 For Goods or Services supplied from outside and inside Kenya, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Kenya and inside Kenya, and these duties or taxes shall be made part of the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to, in which case the duties and taxes will be the Supplier's responsibility.

14.2 For Goods or Services supplied locally, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods or Services to the Procuring Entity. The only exception are taxes or duties, such as value-added or sales tax or stamp duty as apply to, or are clearly identifiable, on the invoices and provided they apply in Kenya, and only if these taxes, levies and/or duties are also excluded from the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to.

14.3 If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in Kenya, the Procuring Entity shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of tender submission in Kenya (also called “Tax” in this GCC Clause 14.4). If any Tax rates are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of the Contract, which was or will be assessed on the Supplier, its Sub contractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

D. Intellectual Property

15 Copyright

15.1 The Intellectual Property Rights in all Standard Software and Standard Materials shall remain vested in the owner of such rights.

15.2 The Procuring Entity agrees to restrict use, copying, or duplication of the Standard Software and Standard Materials in accordance with GCC Clause16, except that additional copies of Standard Materials may be made by the Procuring Entity for use within the scope of the project of which the System is apart, in the event that the Supplier does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.

15.3 The Procuring Entity's contractual rights to use the Standard Software or elements of the Standard Software may not be assigned, licensed, or otherwise transferred voluntarily except in accordance with the relevant license agreement or unless otherwise specified in the SCC to a legally constituted successor organization (e.g., a reorganization of a public entity formally authorized by the government or through a merger or acquisition of a private entity).

15.4 Unless otherwise specified in the SCC, the Intellectual Property Rights in all Custom Software and Custom Materials specified in Appendices 4 and 5 of the Contract Agreement (if any) shall, at the date of this Contractor on creation of the rights (if later than the date of this Contract), vest in the Procuring Entity. The Supplier shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the Procuring Entity may consider necessary or desirable to perfect the right, title, and interest of the Procuring Entity in and to those rights. In respect of such Custom Software and Custom Materials, the Supplier shall ensure that the holder of am or alright in such an item does not assert it, and the Supplier shall, if requested to do so by the Procuring Entity and

where permitted by applicable law, ensure that the holder of such a moral right waives it.

15.5 Unless otherwise specified in the SCC, escrow arrangements shall NOT be required.

16 Software License Agreements

16.1 Except to the extent that the Intellectual Property Rights in the Software vest in the Procuring Entity, the Supplier here by grants to the Procuring Entity license to access and use the Software, including all inventions, designs, and marks embodied in the Software.

Such license to access and use the Software shall:

a) be:

i. non-exclusive;

ii. fully paid up and irrevocable (except that it shall terminate if the Contract terminates under GCC Clauses 41.1 or 41.3);

iii. unless otherwise specified in the SCC valid throughout Kenya;

iv. unless otherwise specified in the SCC subject to NO additional restrictions.

b) Permit the Software to be:

i. used or copied for use on or with the computer(s) for which it was acquired (if specified in the Technical Requirements and/or the Supplier's tender), plus a backup computer(s) of the same or similar capacity, if the primary is (are) in operative, and during a reasonable transitional period when use is being transferred between primary and back up;

ii. used or copied for use on or transferred to are placement computer (s), (and use on the original and replacement computer(s) may be simultaneous during a reasonable transitional period) provided that, if the Technical Requirements and/or the Supplier's tender specifies a class of computer to which the license is restricted, the replacement computer (s) is (are) within that class;

iii. if the nature of the System is such as to permit such access, accessed from other computers connected to the primary and/or back up computer (s) by means of a local or wide-area network or similar arrangement, and used on or copied for use on those other computers to the extent necessary to that access;

iv. reproduced for safe keeping or back up purposes;

v. customized, adapted, or combined with other computer software for use by the Procuring Entity, provided that derivative software incorporating any substantial part of the delivered, restricted Software shall be subject to same restrictions as a reset forth in this Contract;

vi. unless otherwise specified in the SCC, disclosed to, and reproduced for use by, support service suppliers and their sub-contractors, (and the Procuring Entity may sub-license such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as a reset forth in this Contract; and

vii. unless otherwise specified in the SCC disclosed to, and reproduced for use by, NO other parties.

16.2 TheSupplierhastherighttoauditttheStandardSoftwaretoverifycompliancewiththeabovelicenseagreements.

Unless otherwise specified in the SCC, the Procuring Entity will make available to the Supplier, within seven (7) days of a written request, accurate and up-to-date records of the number and location of copies, the number of authorized users, or any other relevant data required to demonstrate use of the Standard Software as per the license agreement. If and only if, expressly agreed in writing between the Procuring Entity and the Supplier, Procuring Entity will allow, under a pre-specified agreed procedure, the execution of embedded software functions under Supplier's control, and unencumbered transmission of resulting information on software usage.

17 Confidential Information

17.1 Unless otherwise specified in the SCC, the" Receiving Party" (either the Procuring Entity or the Supplier) shall keep confidential and shall not, without the written consent of the other party to this Contract ("the Disclosing Party"), divulge to any third party any documents, data, or other information of a confidential nature ("Confidential Information") connected with this Contract, and furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of this Contract.

17.2 For the purposes of GCC Clause 17.1, the Supplier is also deemed to be the Receiving Party of Confidential Information generated by the Supplier itself in the course of the performance of its obligations under the Contract and relating to the businesses, finances, suppliers, employees, or other contacts of the Procuring Entity or the Procuring

Entity's use of the System.

17.3 Notwithstanding GCC Clauses 17.1 and 17.2:

a) the Supplier may furnish to its Subcontractor Confidential Information of the Procuring Entity to the extent reasonably required for the Subcontractor to perform its work under the Contract; and

b) the Procuring Entity may furnish Confidential Information of the Supplier: (i) to its support service suppliers and their subcontractors to the extent reasonably required for them to perform their work under their support service contracts; and (ii) to its affiliates and subsidiaries, in which event the Receiving Party shall ensure that the person to whom it furnishes Confidential Information of the Disclosing Party is aware of and a tenderer by the Receiving Party's obligations under this GCC Clause 17 as if that person were party to the Contract in place of the Receiving Party.

17.4 The Procuring Entity shall not, without the Supplier's prior written consent, use any Confidential Information received from the Supplier for any purpose other than the operation, maintenance and further development of the System. Similarly, the Supplier shall not, without the Procuring Entity's prior written consent, use any Confidential Information received from the Procuring Entity for any purpose other than those that are required for the performance of the Contract.

17.5 The obligation of a party under GCC Clauses 17.1 through 17.4 above, however, shall not apply to that information which:

a) Now or hereafter enters the public domain through no fault of the Receiving Party;
b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
c) otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.

17.6 The above provisions of this GCC Clause17 shall not in any way modify any undertaking of confidentiality given by either of the parties to this Contract prior to the date of the Contract in respect of the System or any part thereof.

17.7 Unless otherwise specified in the SCC, the provisions of this GCC Clause17 shall survive the termination, for whatever reason, of the Contract for three (3) years.

E. Supply, Installation, Testing, Commissioning, and Acceptance of the System

18 Representatives

18.1 Project Manager

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Procuring Entity shall appoint and notify the Supplier in writing of the name of the Project Manager. The Procuring Entity may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Supplier without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the System. Such appointment shall take effect only upon receipt of such notice by the Supplier. Unless otherwise specified in the SCC (if any), the Project Manager shall have the authority to represent the Procuring Entity on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Procuring Entity pursuant to GCC Clause4.

18.2 Supplier's Representative

18.2.1 If the Supplier's Representative is not named in the Contract, then with in fourteen (14) days of the Effective Date, the Supplier shall appoint the Supplier's Representative and shall request the Procuring Entity in writing to approve the person so appointed. The request must be accompanied by a detailed curriculum vitae for the nominee, as well as a description of any other System or non-System responsibilities the nominee would retain while performing the duties of the Supplier's Representative. If the Procuring Entity does not object to the appointment within fourteen (14) days, the Supplier's Representative shall be deemed to have been approved. If the Procuring Entity objects to the appointment within fourteen (14) days giving the reason therefor, then the Supplier shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 18.2.1.

18.2.2 Unless otherwise specified in the SCC (if any), the Supplier's Representative shall have the authority to represent the Supplier on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Supplier pursuant to GCC Clause 4.

18.2.3 The Supplier shall not revoke the appointment of the Supplier's Representative without the Procuring Entity's prior written consent, which shall not be unreasonably withheld. If the Procuring Entity consents to such an action, the Supplier shall appoint another person of equal or superior qualifications as the Supplier's Representative, pursuant to the procedure set out in GCC Clause 18.2.1.

18.2.4 The Supplier's Representative and staff are obliged to work closely with the Procuring Entity's Project Manager and staff, act within their own authority, and a tenderer by directives issued by the Procuring Entity that are consistent with the terms of the Contract. The Supplier's Representative is responsible for managing the activities of its personnel and any subcontracted personnel.

18.2.5 The Supplier's Representative may, subject to the approval of the Procuring Entity (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions, and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Supplier's Representative and shall specify the powers, functions, and authorities there by delegated or revoked. No such delegation or revocation shall take effect unless and until the notice of it has been delivered.

18.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause18.2.5shall be deemed to be an act or exercise by the Supplier's Representative.

18.3 Objections and Removals

18.3.1 The Procuring Entity may by notice to the Supplier object to any representative or person employed by the Supplier in the execution of the Contract who, in the reasonable opinion of the Procuring Entity, may have behaved inappropriately, be incompetent, or be negligent. The Procuring Entity shall provide evidence of the same, where upon the Supplier shall remove such person from work on the System.

18.3.2 If any representative or person employed by the Supplier is removed in accordance with GCC Clause18.3.1, the Supplier shall, where required, promptly appoint a replacement.

19 Project Plan

19.1 In close cooperation with the Procuring Entity and based on the Preliminary Project Plan included in the Supplier's tender, the Supplier shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project Plan shall be as specified in the SCC and/ or Technical Requirements.

19.2 Unless otherwise specified in the SCC, within thirty (30) days from the Effective Date of the Contract, the Supplier shall present a Project Plan to the Procuring Entity. The Procuring Entity shall, within fourteen (14) days of receipt of the Project Plan, notify the Supplier of any respects in which it considers that the Project Plan does not adequately ensure that the proposed program of work, proposed methods, and/or proposed Information Technologies will satisfy the Technical Requirements and/or the SCC (in this Clause 19.2 called “non-conformities” below). The Supplier shall, within five (5) days of receipt of such notification, correct the Project Plan and resubmit to the Procuring Entity. The Procuring Entity shall, within five (5) days of resubmission of the Project Plan, notify the Supplier of any remaining non-conformities. This procedure shall be repeated as necessary until the Project Plan is free from non-conformities. When the Project Plan is free from non-conformities, the Procuring Entity shall provide confirmation in writing to the Supplier. This approved Project Plan (“the Agreed Project Plan”) shall be contractually binding on the Procuring Entity and the Supplier.

19.3 If required, the impact on the Implementation Schedule of modifications agreed during finalization of the Agreed Project Plan shall be incorporated in the Contract by amendment, in accordance with GCC Clauses 39 and 40.

19.4 The Supplier shall undertake to supply, install, test, and commission the System in accordance with the Agreed Project Plan and the Contract.

19.5 Unless otherwise specified in the SCC, the Supplier shall submit to the Procuring Entity Monthly Progress Reports summarizing:

i. Results accomplished during the prior period;
ii. cumulative deviations to date from schedule of progress milestones as specified in the Agreed Project Plan;
iii. corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;
iv. other issues and outstanding problems; proposed actions to be taken;
v. resources that the Supplier expects to be provided by the Procuring Entity and/ or actions to be

taken by the Procuring Entity in the next reporting period;

vi. other issues or potential problems the Supplier foresees that could impact on project progress and/or effectiveness.

19.6 The Supplier shall submit to the Procuring Entity other (periodic) reports as specified in the SCC.

20 Sub-contracting

20.1 Appendix 3 (List of Approved Subcontractors) to the Contract Agreement specifies critical items of supply or services and a list of Subcontractors for each item that are considered acceptable by the Procuring Entity. If no Subcontractors are listed for an item, the Supplier shall prepare a list of Subcontractors it considers qualified and wishes to be added to the list for such items. The Supplier may from time to time propose additions to or deletions from any such list. The Supplier shall submit any such list or any modification to the list to the Procuring Entity for its approval insufficient time so as not to impede the progress of work on the System. The Procuring Entity shall not withhold such approval unreasonably. Such approval by the Procuring Entity of a Subcontractor (s) shall not relieve the Supplier from any of its obligations, duties, or responsibilities under the Contract.

20.2 The Supplier may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 20.1. If the Supplier wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the Procuring Entity's prior approval under GCC Clause 20.3.

20.3 For items for which pre-approved Subcontractor lists have not been specified in Appendix 3 to the Contract Agreement, the Supplier may employ such Subcontractors as it may select, provided: (i) the Supplier notifies the Procuring Entity in writing at least twenty-eight (28) days prior to the proposed mobilization date for such Subcontractor; and (ii) by the end of this period either the Procuring Entity has granted its approval in writing or fails to respond. The Supplier shall not engage any Subcontract or to which the Procuring Entity has objected in writing prior to the end of the notice period. The absence of a written objection by the Procuring Entity during the above specified period shall constitute formal acceptance of the proposed Subcontractor. Except to the extent that it permits the deemed approval of the Procuring Entity of Subcontractors not listed in the Contract Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the Procuring Entity or Supplier as they are specified in GCC Clauses 20.1 and 20.2, or in Appendix3 of the Contract Agreement.

21 Design and Engineering

21.1 Technical Specifications and Drawings

21.1.1 The Supplier shall execute the basic and detailed design and the implementation activities necessary for successful installation of the System in compliance with the provisions of the Contractor, where not so specified, in accordance with good industry practice.

The Supplier shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of in accurate information furnished in writing to the Supplier by or on behalf of the Procuring Entity.

21.1.2 The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Project Manager.

21.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of tender submission shall apply. During Contract execution, any changes in such codes and standards shall be applied after approval by the Procuring Entity and shall be treated in accordance with GCC Clause 39.3.

21.3 Approval/ Review of Controlling Technical Documents by the Project Manager

21.3.2 Unless otherwise specified in the SCC, there will NO Controlling Technical Documents required. However, if the SCC specifies Controlling Technical Documents, the Supplier shall prepare and furnish such documents for the Project Manager's approval or review.

Any part of the System covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval of these documents.

GCC Clauses 21.3.2 through 21.3.7 shall apply to those documents requiring the Project Manager's approval, but not

to those furnished to the Project Manager for its review only.

21.3.3 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause 21.3.1, the Project Manager shall either return one copy of the document to the Supplier with its approval endorsed on the document or shall notify the Supplier in writing of its disapproval of the document and the reasons for disapproval and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the fourteen (14) days, then the document shall be deemed to have been approved by the Project Manager.

21.3.4 The Project Manager shall not disapprove any document except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good industry practice.

21.3.5 If the Project Manager disapproves the document, the Supplier shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Clause 21.3.2. If the Project Manager approves the document subject to modification(s), the Supplier shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 21.3.5. The procedure set out in GCC Clauses 21.3.2 through 21.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents.

21.3.6 If any dispute occurs between the Procuring Entity and the Supplier in connection with or arising out of the disapproval by the Project Manager of any document and/ or any modification (s) to a document that cannot be settled between the parties within a reasonable period, then, in case the Contract Agreement includes and names an Adjudicator, such dispute may be referred to the Adjudicator for determination in accordance with GCC Clause 43.1 (Adjudication). If such dispute is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Supplier shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Supplier's view on the dispute and if the Procuring Entity has not given notice under GCC Clause 43.1.2, then the Supplier shall be reimbursed by the Procuring Entity for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Achieving Operational Acceptance shall be extended accordingly.

21.3.7 The Project Manager's approval, with or without modification of the document furnished by the Supplier, shall not relieve the Supplier of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project Manager or inaccurate information furnished in writing to the Supplier by or on behalf of the Procuring Entity.

21.3.8 The Supplier shall not depart from any approved document unless the Supplier has first submitted to the Project Manager an amended document and obtained the Project Manager's approval of the document, pursuant to the provisions of this GCC Clause 21.3. If the Project Manager requests any change in any already approved document and/or in any document based on such an approved document, the provisions of GCC Clause 39 (Changes to the System) shall apply to such request.

22 Procurement, Delivery, and Transport

22.1 Subject to related Procuring Entity's responsibilities pursuant to GCC Clauses 10 and 14, the Supplier shall manufacture or procure and transport all the Information Technologies, Materials, and other Goods in an expeditious and orderly manner to the Project Site.

22.2 Delivery of the Information Technologies, Materials, and other Goods shall be made by the Supplier in accordance with the Technical Requirements.

22.3 Early or partial deliveries require the explicit written consent of the Procuring Entity; which consent shall not be unreasonably withheld.

22.4 Packaging and Transportation

22.4.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during shipment. The packing, marking, and documentation within and outside the packages shall comply strictly with the Procuring Entity's instructions to the Supplier.

22.4.2 The Supplier will bear responsibility for and cost of transport to the Project Sites in accordance with the terms and conditions used in the specification of prices in the Price Schedules, including the terms and conditions of the associated Inco terms.

22.4.3 Unless otherwise specified in the SCC, the Supplier shall be free to use transportation through carriers

registered in any eligible country and to obtain insurance from any eligible source country.

Unless otherwise specified in the SCC, the Supplier will provide the Procuring Entity with shipping and other documents, as specified below:

22.4.4 For Goods supplied from outside Kenya:

Upon shipment, the Supplier shall notify the Procuring Entity and the insurance company contracted by the Supplier to provide cargo insurance by cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the following documents to the Procuring Entity by mail or courier, as appropriate, with a copy to the cargo insurance company:

a) Two copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount;
b) usual transportation documents;
c) insurance certificate;
d) certificate (s) of origin; and
e) estimated time and point of arrival in Kenya and at the site.

25.5.2 For Goods supplied locally (i.e., from within Kenya):

Upon shipment, the Supplier shall notify the Procuring Entity by cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the following documents to the Procuring Entity by mail or courier, as appropriate:

a) Two copies of the Supplier's invoice showing the Goods' description, quantity, unit price, and total amount;
b) Delivery note, railway receipt, or truck receipt;
c) certificate of insurance;
d) certificate (s) of origin; and
e) estimated time of arrival at the site.

25.6 Customs Clearance

a) The Procuring Entity will bear responsibility for, and cost of, customs clearance into Kenya in accordance with the particular Incoterm(s) used for Goods supplied from outside Kenya in the Price Schedules referred to by Article2 of the Contract Agreement.
b) At the request of the Procuring Entity, the Supplier will make available a representative or agent during the process of customs clearance in Kenya for goods supplied from outside Kenya. In the event of delays in customs clearance that are not the fault of the Supplier:
   i. the Supplier shall be entitled to an extension in the Time for Achieving Operational Acceptance, pursuant to GCC Clause40;
   ii. the Contract Price shall be adjusted to compensate the Supplier for any additional storage charges that the Supplier may incur as a result of the delay.

23 Product Upgrades

23.1 At any point during performance of the Contract, should technological advances be introduced by the Supplier for Information Technologies originally offered by the Supplier in its tender and still to be delivered, the Supplier shall be obligated to offer to the Procuring Entity the latest versions of the available Information Technologies having equal or better performance or functionality at the same or lesser unit prices, pursuant to GCC Clause39 (Changes to the System).

23.2 At any point during performance of the Contract, for Information Technologies still to be delivered, the Supplier will also pass on to the Procuring Entity any cost reductions and additional and/ or improved support and facilities that it offers to other clients of the Supplier in Kenya, pursuant to GCC Clause39 (Changes to the System).

23.3 During performance of the Contract, the Supplier shall offer to the Procuring Entity all new versions, releases, and updates of Standard Software, as well as related documentation and technical support services, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in Kenya, and no later than twelve (12) months after they are released in the country of origin. In no case will the prices for these Software exceed those quoted by the Supplier in the Recurrent Costs tables in its tender.

23.4 Unless otherwise specified in the SCC, during the Warranty Period, the Supplier will provide at no additional

cost to the Procuring Entity all new versions, releases, and updates for all Standard Software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in Kenya, and no later than twelve (12) months after they are released in the country of origin of the Software.

23.5 The Procuring Entity shall introduce all new versions, releases or updates of the Software within eighteen (18) months of receipt of a production-ready copy of the new version, release, or update, provided that the new version, release, or update does not adversely affect System operation or performance or require extensive reworking of the System. In cases where the new version, release, or update adversely affects System operation or performance, or requires extensive reworking of the System, the Supplier shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update. In no case shall the Supplier stop supporting or maintaining a version or release of the Software less than twenty-four (24) months after the Procuring Entity receives a production-ready copy of a subsequent version, release, or update. The Procuring Entity shall use all reasonable endeavors to implement any new version, release, or update as soon as practicable, subject to the twenty-four-month-long stop date.

24 Implementation, Installation, and Other Services

24.1 The Supplier shall provide all Services specified in the Contract and Agreed Project Plan in accordance with the highest standards of professional competence and integrity.

24.2 Prices charged by the Supplier for Services, if not included in the Contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the Supplier in the Recurrent Cost Schedules of its Tender) and shall not exceed the prevailing rates charged by the Supplier to other Procuring Entity's in Kenya for similar services.

25 Inspections and Tests

25.1 The Procuring Entity or its representative shall have the right to inspect and/or test any components of the System, as specified in the Technical Requirements, to confirm their good working order and/ or conformity to the Contract at the point of delivery and/ or at the Project Site.

25.2 The Procuring Entity or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the Procuring Entity shall bear all costs and expenses incurred in connection with such attendance, including but not limited to all inspection agent fees, travel, and related expenses.

25.3 Should the inspected or tested components fail to conform to the Contract, the Procuring Entity may reject the component (s), and the Supplier shall either replace the rejected component (s), or make alterations as necessary so that it meets the Contract requirements free of cost to the Procuring Entity.

25.4 The Project Manager may require the Supplier to carry out any inspection and/or test not specified in the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such inspection and/ or test shall be added to the Contract Price. Further, if such inspection and/ or test impedes the progress of work on the System and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Achieving Operational Acceptance and the other obligations so affected.

25.5 If any dispute shall arise between the parties in connection with or caused by an inspection and/ or with regard to any component to be incorporated in the System that cannot be settled amicably between the parties within a reasonable period of time, either party may invoke the process pursuant to GCC Clause 43 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is included and named in the Contract Agreement.

26 Installation of the System

26.1 As soon as the System, or any Subsystem, has, in the opinion of the Supplier, been delivered, Pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Technical Requirements, the SCC and the Agreed Project Plan, the Supplier shall so notify the Procuring Entity in writing.

26.2 The Project Manager shall, within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, either issue an Installation Certificate in the form specified in the Sample Contractual Forms Section in the tendering documents, stating that the System, or major component or Subsystem (if Acceptance by major component or Sub system is specified pursuant to the SCC for GCC Clause27.2.1), has achieved Installation by the date of the Supplier's notice under GCC Clause 26.1, or notify the Supplier in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components

and/or Subsystems making up the System. The Supplier shall use all reasonable endeavors to promptly remedy any defect and/ or deficiencies that the Project Manager has notified the Supplier of. The Supplier shall then promptly carryout retesting of the System or Sub system and, when in the Supplier's opinion the System or Sub system is ready for Commissioning and Operational Acceptance Testing, notify the Procuring Entity in writing, in accordance with GCC Clause 26.1. The procedure set out in this GCC Clause shall be repeated, as necessary, until an Installation Certificate is issued.

26.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the Supplier of any defects and/or deficiencies within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1,or if the Procuring Entity puts the System or a Subsystem in to production operation, then the System (or Subsystem) shall be deemed to have achieved successful Installation as of the date of the Supplier's notice or repeated notice, or when the Procuring Entity put the System in to production operation, as the case may be.

27 Commissioning and Operational Acceptance

27.1 Commissioning

27.1.1 Commissioning of the System (or Subsystem if specified pursuant to the SCC for GCC Clause 27.2.1) shall be commenced by the Supplier:

a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 26.2; or

b) as otherwise specified in the Technical Requirement or the Agreed Project Plan; or

c) immediately after Installation is deemed to have occurred, under GCC Clause 26.3.

27.1.2 The Procuring Entity shall supply the operating and technical personnel and all materials and information reasonably required to enable the Supplier to carry out its obligations with respect to Commissioning. Production use of the System or Subsystem(s) shall not commence prior to the start of formal Operational Acceptance Testing.

27.2 Operational Acceptance Tests

27.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Procuring Entity (in accordance with GCC Clause 10.9), but shall be conducted with the full cooperation of the Supplier during Commissioning of the System (or major components or Subsystem[s]), to ascertain whether the System (or major component or Subsystem[s]) conforms to the Technical Requirements and meets the standard of performance quoted in the Supplier's tender, including, but not restricted to, the functional and technical performance requirements. Unless otherwise specified in the SCC, the Operational Acceptance Tests during Commissioning will be conducted as specified in the Technical Requirements and/ or the Agreed Project Plan. At the Procuring Entity's discretion, Operational Acceptance Tests may also be performed on replacement Goods, upgrades and new version releases, and Goods that are added or field-modified after Operational Acceptance of the System.

27.2.2 If for reasons attributable to the Procuring Entity, the Operational Acceptance Test of the System (or Subsystem[s] or major components, pursuant to the SCC for GCC Clause 27.2.1) cannot be successfully completed within ninety (90) days from the date of Installation or any other period agreed upon in writing by the Procuring Entity and the Supplier, the Supplier shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Technical Specifications, SCC and/ or the Agreed Project Plan, and GCC Clause 28.2 and 28.3 shall not apply.

27.3 Operational Acceptance

27.3.1 Subject to GCC Clause 27.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when

a) the Operational Acceptance Tests, as specified in the Technical Requirements, and/or SCC and/or the Agreed Project Plan have been successfully completed; or
b) the Operational Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the Procuring Entity within the period from the date of Installation or any other agreed-upon period as specified in GCC Clause 27.2.2 above; or
c) the Procuring Entity has put the System into production or use for sixty (60) consecutive days. If the System is put into production or use in this manner, the Supplier shall notify the Procuring Entity and document such use.

27.3.2 At any time after any of the events set out in GCC Clause 27.3.1 have occurred, the Supplier may give a

notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.

27.3.3 After consultation with the Procuring Entity, and within fourteen (14) days after receipt of the Supplier's notice, the Project Manager shall:

d) Issue an Operational Acceptance Certificate; or
e) Notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or
f) Issue the Operational Acceptance Certificate, if the situation covered by GCC Clause 27.3.1 (b) arises.

27.3.4 The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Procuring Entity, and the Procuring Entity, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the System or Sub system. Upon the successful conclusion of the Operational Acceptance Tests, the Supplier shall notify the Procuring Entity of its request for Operational Acceptance Certification, in accordance with GCC Clause 27.3.3. The Procuring Entity shall then issue to the Supplier the Operational Acceptance Certification in accordance with GCC Clause 27.3.3 (a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause27.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued.

27.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 27.2, the neither:

a) The Procuring Entity may consider terminating the Contract, pursuant to GCC Clause 41.2.2; or
b) If the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the Procuring Entity to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract, and GCC Clauses 30.3 and 30.4 shall not apply.

27.3.6 If within fourteen (14) days after receipt of the Supplier's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the Supplier's said notice.

27.4 Partial Acceptance

27.4.1 If so specified in the SCC for GCC Clause 27.2.1, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem (s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate (s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in GCC Clause 27.4.2.

27.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 27.4.1 shall not relieve the Supplier of its obligation to obtain an Operational Acceptance Certificate for the System as an integrated whole (if so specified in the SCC for GCC Clauses 12.1 and 27.2.1) once all major components and Subsystems have been supplied, installed, tested, and commissioned.

27.4.3 In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The Supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Procuring Entity or Supplier.

F. Guarantees and Liabilities

28 Operational Acceptance Time Guarantee

28.1 The Supplier guarantees that it shall complete the supply, Installation, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, pursuant to the SCC for GCC Clause 27.2.1) within the time periods specified in the Implementation Schedule and/or the Agreed Project Plan pursuant to GCC Clause 8.2, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving

Operational Acceptance).

28.2 Unless otherwise specified in the SCC, if the Supplier fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems pursuant to the SCC for GCC Clause 27.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule or the Agreed Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance), the Supplier shall pay to the Procuring Entity liquidated damages at the rate of one half of one percent per week as a percentage of the Contract Price (exclusive of Recurrent Costs if any), or the relevant part of the Contract Price if a Subsystem has not achieved Operational Acceptance. The aggregate amount of such liquidated damages shall in no event exceed the amount often (10) percent of the Contract Price (exclusive of Recurrent Costs if any). Once the Maximum is reached, the Procuring Entity may consider termination of the Contract, pursuant to GCC Clause 41.2.2.

28.3 Unless otherwise specified in the SCC, liquidated damages payable under GCC Clause 28.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule and/or Agreed Project Plan. This Clause 28.3 shall not limit, however, any other rights or remedies the Procuring Entity may have under the Contract for other delays.

28.4 If liquidated damages are claimed by the Procuring Entity for the System (or Subsystem), the Supplier shall have no further liability whatsoever to the Procuring Entity in respect to the Operational Acceptance time guarantee for the System (or Subsystem). However, the payment of liquidated damages shall not in any way relieve the Supplier from any of its obligations to complete the System or from any other of its obligations and liabilities under the Contract.

29 Defect Liability

29.1 The Supplier warrants that the System, including all Information Technologies, Materials, and other Goods supplied and Services provided, shall be free from defects in the design, engineering, Materials, and workmanship that prevent the System and/or any of its components from fulfilling the Technical Requirements or that limit in a material fashion the performance, reliability, or extensibility of the System and/or Subsystems. Unless otherwise specified in the SCC, there will be NO exceptions and/or limitations to this warranty with respect to Software (or categories of Software). Commercial warranty provisions of products supplied under the Contract shall apply to the extent that they do not conflict with the provisions of this Contract.

29.2 The Supplier also warrants that the Information Technologies, Materials, and other Goods supplied under the Contract are new, unused, and in corporate all recent improvements in design that materially affect the System's or Subsystem's ability to fulfill the Technical Requirements.

29.3 Unless otherwise specified in the SCC, the Supplier warrants that :(i) all Goods components to be incorporated into the System form part of the Supplier's and/or Subcontractor's current product lines, and (ii) they have been previously released to the market.

29.4 Unless otherwise specified in the SCC, the Warranty Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for thirty-six (36) months.

29.5 If during the Warranty Period any defect as described in GCC Clause 29.1 should be found in the design, engineering, Materials, and workmanship of the Information Technologies and other Goods supplied or of the Services provided by the Supplier, the Supplier shall promptly, in consultation and agreement with the Procuring Entity regarding appropriate remedying of the defects, and at its sole cost, repair, replace, or otherwise make good (as the Supplier shall, at its discretion, determine) such defect as well as any damage to the System caused by such defect. Any defective Information Technologies or other Goods that have been replaced by the Supplier shall remain the property of the Supplier.

29.6 The Supplier shall not be responsible for the repair, replacement, or making good of any defect, or of any damage to the System arising out of or resulting from any of the following causes:

a) Improper operation or maintenance of the System by the Procuring Entity;
b) Normal wear and tear;
c) use of the System with items not supplied by the Supplier, unless otherwise identified in the Technical Requirements, or approved by the Supplier; or
d) modifications made to the System by the Procuring Entity, or a third party, not approved by the Supplier.

29.7 The Supplier's obligations under this GCC Clause 29 shall not apply to:

a) any materials that are normally consumed in operation or have a normal life shorter than the Warranty Period; or
b) any designs, specifications, or other data designed, supplied, or specified by or on behalf of the Procuring Entity or any matters for which the Supplier has disclaimed responsibility, in accordance with GCC Clause 21.1.2.

29.8 The Procuring Entity shall give the Supplier a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence. The Procuring Entity shall afford all reasonable opportunity for the Supplier to inspect any such defect. The Procuring Entity shall afford the Supplier all necessary access to the System and the site to enable the Supplier to perform its obligations under this GCC Clause 29.

29.9 The Supplier may, with the consent of the Procuring Entity, remove from the site any Information Technologies and other Goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the Procuring Entity may give the Supplier notice requiring that tests of the defective part be made by the Supplier immediately upon completion of such remedial work, where upon the Supplier shall carry out such tests.

If such part fails the tests, the Supplier shall carry out further repair, replacement, or making good (as the case maybe) until that part of the System passes such tests. The tests shall be agreed upon by the Procuring Entity and the Supplier.

29.10 Unless otherwise specified in the SCC, the response times and repair/replacement times for Warranty Defect Repair are specified in the Technical Requirements. Nevertheless, if the Supplier fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within two weeks the Procuring Entity may, following notice to the Supplier, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Procuring Entity in connection with such work shall be paid to the Procuring Entity by the Supplier or may be deducted by the Procuring Entity from any monies due the Supplier or claimed under the Performance Security.

29.11 If the System or Subsystem cannot be used by reason of such defect and/or making good of such defect, the Warranty Period for the System shall be extended by a period equal to the period during which the System or Subsystem could not be used by the Procuring Entity because of such defect and/or making good of such defect.

29.12 Items substituted for defective parts of the System during the Warranty Period shall be covered by the Defect Liability Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater. For reasons of information security, the Procuring Entity may choose to retain physical possession of any replaced defective information storage devices.

29.13 At the request of the Procuring Entity and without prejudice to any other rights and remedies that the Procuring Entity may have against the Supplier under the Contract, the Supplier will offer all possible assistance to the Procuring Entity to seek warranty services or remedial action from any subcontracted third-party producers or licensor of Goods included in the System, including without limitation assignment or transfer in favor of the Procuring Entity of the benefit of any warranties given by such producers or licensors to the Supplier.

30 Functional Guarantees

30.1 The Supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the Procuring Entity's requirements set forth in the Technical Requirements and it conforms to all other aspects of the Contract. The Supplier acknowledges that GCC Clause 27 regarding Commissioning and Operational Acceptance govern show technical conformance of the System to the Contract requirements will be determined.

30.2 If, for reasons attributable to the Supplier, the System does not conform to the Technical Requirements or does not conform to all other aspects of the Contract, the Supplier shall at its cost and expense make such changes, modifications, and/or additions to the System as may be necessary to conform to the Technical Requirements and meet all functional and performance standards. The Supplier shall notify the Procuring Entity upon completion of the necessary changes, modifications, and/or additions and shall request the Procuring Entity to repeat the Operational Acceptance Tests until the System achieves Operational Acceptance.

30.3 If the System (or Subsystem[s]) fails to achieve Operational Acceptance, the Procuring Entity may consider termination of the Contract, pursuant to GCC Clause 41.2.2, and forfeiture of the Supplier's Performance Security in accordance with GCC Clause 13.3 in compensation for the extra costs and delays likely to result from this failure.

31 Intellectual Property Rights Warranty

31.1 The Supplier here by represents and warrants that:

a) The System as supplied, installed, tested, and accepted;
b) Use of the System in accordance with the Contract; and
c) Copying of the Software and Materials provided to the Procuring Entity in accordance with the Contract do not and will not infringe any Intellectual Property Rights held by any third party and that it has all necessary rights or at its sole expense shall have secured in writing all transfer so frights and other consents necessary to make the assignments, licenses, and other transfers of Intellectual Property Rights and the warranties set forth in the Contract, and for the Procuring Entity to own or exercise all Intellectual Property Rights as provided in the Contract. Without limitation, the Supplier shall secure all necessary written agreements, consents, and transfers of rights from its employees and other persons or entities whose services are used for development of the System.

32 Intellectual Property Rights Indemnity

32.1 The Supplier shall indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability), that the Procuring Entity or its employees or officers may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights by reason of:

a) Installation of the System by the Supplier or the use of the System, including the Materials, in the country where the site is located;
b) copying of the Software and Materials provided by the Supplier in accordance with the Agreement; and
c) sale of the products produced by the System in any country, except to the extent that such losses, liabilities, and costs a rise as a result of the Procuring Entity's breach of GCC Clause 32.2.

32.2 Such indemnity shall not cover any use of the System, including the Materials, other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the System, or any products of the System produced there by in association or combination with any other goods or services not supplied by the Supplier, where the infringement arises because of such association or combination and not because of use of the System in its own right.

32.3 Such indemnities shall also not apply if any claim of infringement:

a) Is asserted by apparent, subsidiary, or affiliate of the Procuring Entity's organization;
b) Is a direct result of a design mandated by the Procuring Entity's Technical Requirements and the possibility of such infringement was duly noted in the Supplier's Tender; or
c) Results from the alteration of the System, including the Materials, by the Procuring Entity or any persons other than the Supplier or a person authorized by the Supplier.

32.4 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Clause 32.1, the Procuring Entity shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Procuring Entity within the twenty-eight (28) days, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

32.5 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Supplier or its employees, officers, or

Subcontractors may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided to the Supplier in connection with this Contract by the Procuring Entity or any persons (other than the Supplier) contracted by the Procuring Entity, except to the extent that such losses, liabilities, and costs arise as a result of the Supplier's breach of GCC Clause 32.8.

32.6 Such indemnity shall not cover

a) any use of the design, data, drawing, specification, or other documents or materials, other than for the purpose indicated by or to be reasonably inferred from the Contract;
b) any infringement resulting from the use of the design, data, drawing, specification, or other documents or materials, or any products produced thereby, in association or combination with any other Goods or Services not provided by the Procuring Entity or any other person contracted by the Procuring Entity, where the infringement arises because of such association or combination and not because of the use of the design, data, drawing, specification, or other documents or materials in its own right.

32.7 Such indemnities shall also not apply:

a) If any claim of infringement is asserted by apparent, subsidiary, or affiliate of the Supplier's organization;
b) to the extent that any claim of infringement is caused by the alteration, by the Supplier, or any persons contracted by the Supplier, of the design, data, drawing, specification, or other documents or materials provided to the Supplier by the Procuring Entity or any persons contracted by the Procuring Entity.

32.8 If any proceedings are brought or any claim is made against the Supplier arising out of the matters referred to in GCC Clause 32.5, the Supplier shall promptly give the Procuring Entity notice of such proceedings or claims, and the Procuring Entity may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Procuring Entity fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Procuring Entity has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Procuring Entity's request, afford all available assistance to the Procuring Entity in conducting such proceedings or claim and shall be reimbursed by the Procuring Entity for all reasonable expenses incurred in so doing.

33 Limitation of Liability

33.1 Provided the following does not exclude or limit any liabilities of either party in ways not permitted by applicable law:

a) the Supplier shall not be liable to the Procuring Entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity; and
b) the aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Supplier to indemnify the Procuring Entity with respect to intellectual property rights infringement.

G. Risk Distribution

34 Transfer of Ownership

34.1 With the exception of Software and Materials, the ownership of the Information Technologies and other Goods shall be transferred to the Procuring Entity at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.

34.2 Ownership and the terms of usage of the Software and Materials supplied under the Contract shall be governed by GCC Clause 15 (Copyright) and any elaboration in the Technical Requirements.

34.3 Ownership of the Supplier's Equipment used by the Supplier and its Subcontractors in connection with the Contract shall remain with the Supplier or its Subcontractors.

35 Care of the System

35.1 The Procuring Entity shall be come responsible for the care and custody of the System or Subsystems upon their Delivery. The Procuring Entity shall make good at its own cost any loss or damage that may occur to the System or Subsystems from any cause from the date of Delivery until the date of Operational Acceptance of the System or Subsystems, pursuant to GCC Clause 27 (Commissioning and Operational Acceptance), except such loss or damage arising from acts or omissions of the Supplier, its employees, or subcontractors.

35.2 If any loss or damage occurs to the System or any part of the System by reason of:

a) (in so far as they relate to the country where the Project Site is located) nuclear reaction, nuclear radiation, radioactive contamination, a pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, in so far as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance taken out under GCC Clause 37;

b) Any use not in accordance with the Contract, by the Procuring Entity or any third party;

c) Any use of or reliance upon any design, data, or specification provided or designated by or on behalf of the Procuring Entity, or any such matter for which the Supplier has disclaimed responsibility in accordance with GCC Clause 21.1.2, the Procuring Entity shall pay to the Supplier all sums payable in respect of the System or Subsystems that have achieved Operational Acceptance, notwithstanding that the same be lost, destroyed, or damaged. If the Procuring Entity requests the Supplier in writing to make good any loss or damage to the System thereby occasioned, the Supplier shall make good the same at the cost of the Procuring Entity in accordance with GCC Clause 39. If the Procuring Entity does not request the Supplier in writing to make good any loss or damage to the System there by occasioned, the Procuring Entity shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the System there by lost, destroyed, or damaged, or, where the loss or damage affects a substantial part of the System, the Procuring Entity shall terminate the Contract pursuant to GCC Clause 41.1.

35.3 The Procuring Entity shall be liable for any loss of or damage to any Supplier's Equipment which the Procuring Entity has authorized to locate within the Procuring Entity's premises for use in fulfillment of Supplier's obligations under the Contract, except where such loss or damage arises from acts or omissions of the Supplier, its employees, or subcontractors.

36 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

36.1 The Supplier and each and every Subcontractor shall abide by the job safety, insurance, customs, and immigration measures prevalent and laws in force in Kenya.

36.2 Subject to GCC Clause 36.3, the Supplier shall indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all losses, liabilities and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Procuring Entity or its employees or officers may suffer as a result of the death or injury of any person or loss of or damage to any property (other than the System, whether accepted or not) arising in connection with the supply, installation, testing, and Commissioning of the System and by reason of the negligence of the Supplier or its Subcontractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the Procuring Entity, its contractors, employees, officers, or agents.

36.3 If any proceedings are brought or any claim is made against the Procuring Entity that might subject the Supplier to liability under GCC Clause 36.2, the Procuring Entity shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Procuring Entity within the twenty-eight (28) day period, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

36.4 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Supplier or its employees, officers, or Subcontractors may suffer as a result of the death or personal injury of any person or loss of or damage to property of the Procuring Entity, other than the System not yet achieving Operational Acceptance, that is caused by fire, explosion, or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 37 (Insurances), provided that such fire, explosion, or other perils were not caused by any act or failure of the Supplier.

36.5 If any proceedings are brought or any claim is made against the Supplier that might subject the Procuring Entity to liability under GCC Clause 36.4, the Supplier shall promptly give the Procuring Entity notice of such proceedings or claims, and the Procuring Entity may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Procuring Entity fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Procuring Entity has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be

prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Procuring Entity's request, afford all available assistance to the Procuring Entity in conducting such proceedings or claim and shall be reimbursed by the Procuring Entity for all reasonable expenses incurred in so doing.

36.6 The party entitled to the benefit of an indemnity under this GCC Clause 36 shall take all reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

37 Insurances

37.1 The Supplier shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurance set forth below. The identity of the insurers and the form of the policies shall be subject to the approval of the Procuring Entity, who should not unreasonably with hold such approval.

a) Cargo Insurance During Transport

as applicable, 110 percent of the price of the Information Technologies and other Goods in a freely convertible currency, covering the Goods from physical loss or damage during shipment through receipt at the Project Site.

b) Installation "All Risks" Insurance

as applicable, 110 percent of the price of the Information Technologies and other Goods covering the Goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under "all risks" insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the System.

c) Third-Party Liability Insurance

On terms as specified in the SCC, covering bodily injury or death suffered by third parties (including the Procuring Entity's personnel) and loss of or damage to property (including the Procuring Entity's property and any Subsystems that have been accepted by the Procuring Entity) occurring in connection with the supply and installation of the Information System.

d) Automobile Liability Insurance

In accordance with the statutory requirements prevailing in Kenya, covering use of all vehicles used by the Supplier or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.

e) Other Insurance (if any), as specified in the SCC.

37.2 The Procuring Entity shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1, except for the Third-Party Liability, and the Supplier's Subcontractors shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1 except for Cargo Insurance During Transport. All insurer's rights of subrogation against such co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

37.3 The Supplier shall deliver to the Procuring Entity certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect.

37.4 The Supplier shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Supplier.

37.5 If the Supplier fails to take out and/or maintain in effect the insurance referred to in GCC Clause 37.1, the Procuring Entity may takeout and maintain in effect any such insurance and may from time to time deduct from any amount due to the Supplier under the Contract any premium that the Procuring Entity shall have paid to the insurer or may otherwise recover such amount as a debt due from the Supplier.

37.6 Unless otherwise provided in the Contract, the Supplier shall prepare and conduct all and any claims made under the policies affected by it pursuant to this GCC Clause 37, and all monies payable by any insurers shall be paid to the Supplier. The Procuring Entity shall give to the Supplier all such reasonable assistance as may be required by the Supplier in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the Procuring Entity's interest is involved, the Supplier shall not give any release or make any compromise with the insurer without the prior written consent of the Procuring Entity. With respect to insurance claims in which the Supplier's interest is involved, the Procuring Entity shall not give any release or make any compromise with the insurer without the prior written consent of the Supplier.

38 Force Majeure

38.1 "Force Majeure" shall mean any event beyond the reasonable control of the Procuring Entity or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:

a) war, hostilities, or war like operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;
b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;
c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or dejure or defacto authority or ruler, or any other act or failure to act of any local state or national government authority;
d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;
e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;
f) failure, by the Supplier, to obtain the necessary export permit (s) from the governments of the Country(s) of Origin of the Information Technologies or other Goods, or Supplier's Equipment provided that the Supplier has made all reasonable efforts to obtain the required export permit(s), including the exercise of due diligence in determining the eligibility of the System and all of its components for receipt of the necessary export permits.

38.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.

38.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

38.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Clause 38.6.

38.5 No delay or nonperformance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:

a) Constitute a default or breach of the Contract;
b) (subject to GCC Clauses 35.2, 38.3, and 38.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or nonperformance, if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.

38.6 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.

38.7 In the event of termination pursuant to GCC Clause 38.6, the rights and obligations of the Procuring Entity and the Supplier shall be as specified in GCC Clauses 41.1.2 and 41.1.3.

38.8 Notwithstanding GCC Clause 38.5, Force Majeure shall not apply to any obligation of the Procuring Entity to make payments to the Supplier under this Contract.

H. Change in Contract Elements

39 Changes to the System

39.1 Introducing a Change

39.1.1 Subject to GCC Clauses 39.2.5 and 39.2.7, the Procuring Entity shall have the right to propose, and subsequently require, the Project Manager to order the Supplier from time to time during the performance of the Contract to make any change, modification, addition, or deletion to, in, or from the System (interchangeably called "Change"), provided that such Change falls within the general scope of the System, does not constitute unrelated work, and is technically practicable, taking into account both the state of advancement of the System and the technical compatibility of the Change envisaged with the nature of the System as originally specified in the Contract.

39.1.2 A Change may involve, but is not restricted to, the substitution of updated Information Technologies and related Services in accordance with GCC Clause 23 (Product Upgrades).

39.1.3 The Supplier may from time to time during its performance of the Contract propose to the Procuring Entity (with a copy to the Project Manager) any Change that the Supplier considers necessary or desirable to improve the quality or efficiency of the System. The Procuring Entity may at its discretion approve or reject any Change proposed by the Supplier.

39.1.4 Notwithstanding GCC Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Supplier in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Achieving Operational Acceptance.

39.1.5 The procedure on how to proceed with and execute Changes is specified in GCC Clauses 39.2 and 39.3, and further details and sample forms are provided in the Sample Contractual Forms Section in the tendering documents.

39.1.6 Moreover, the Procuring Entity and Supplier will agree, during development of the Project Plan, to a date prior to the scheduled date for Operational Acceptance, after which the Technical Requirements for the System shall be "frozen." Any Change initiated after this time will be dealt with after Operational Acceptance.

39.2 Changes Originating from Procuring Entity

39.2.4 If the Procuring Entity proposes a Change pursuant to GCC Clauses 39.1.1, it shall send to the Supplier a "Request for Change Proposal," requiring the Supplier to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

a) Brief description of the Change;
b) Impact on the Time for Achieving Operational Acceptance;
c) Detailed estimated cost of the Change;
d) Effect on Functional Guarantees (if any);
e) Effect on any other provisions of the Contract.

39.2.5 Prior to preparing and submitting the "Change Proposal," the Supplier shall submit to the Project Manager a "Change Estimate Proposal," which shall be an estimate of the cost of preparing the Change Proposal, plus a first approximation of the suggested approach and cost for implementing the changes. Upon receipt of the Supplier's Change Estimate Proposal, the Procuring Entity shall do one of the following:

a) accept the Supplier's estimate with instructions to the Supplier to proceed with the preparation of the Change Proposal;
b) advise the Supplier of any part of its Change Estimate Proposal that is unacceptable and request the Supplier to review its estimate;
c) advise the Supplier that the Procuring Entity does not intend to proceed with the Change.

39.2.6 Upon receipt of the Procuring Entity's instruction to proceed under GCC Clause 39.2.2 (a), the Supplier shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Clause 39.2.1. The Supplier, at its discretion, may specify a validity period for the Change Proposal, after which if the Procuring Entity and Supplier has not reached agreement in accordance with GCC Clause 39.2.6, then GCC Clause 39.2.7 shall apply.

39.2.7 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the nature of the Change is such that the Contract rates and prices are in equitable, the parties to the Contract shall agree on other specific rates to be used for valuing the Change.

39.2.8 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate impact of compliance with the Request for Change Proposal and with all other Change Orders that have already become binding upon the Supplier under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than fifteen (15) percent, the

Supplier may give a written notice of objection to this Request for Change Proposal prior to furnishing the Change Proposal. If the Procuring Entity accepts the Supplier's objection, the Procuring Entity shall withdraw the proposed Change and shall notify the Supplier in writing of its acceptance.

The Supplier's failure to so object to a Request for Change Proposal shall neither affect its right to object to any subsequent requested Changes or Change Orders, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Supplier represents.

39.2.9 Upon receipt of the Change Proposal, the Procuring Entity and the Supplier shall mutually agree upon all matters contained in the Change Proposal. Within fourteen (14) days after such agreement, the Procuring Entity shall, if it intends to proceed with the Change, issue the Supplier a Change Order. If the Procuring Entity is unable to reach a decision within fourteen (14) days, it shall notify the Supplier with details of when the Supplier can expect a decision. If the Procuring Entity decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Supplier accordingly. Under such circumstances, the Supplier shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Supplier in its Change Estimate Proposal submitted in accordance with GCC Clause 39.2.2.

39.2.10 If the Procuring Entity and the Supplier cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Achieving Operational Acceptance, or any other matters identified in the Change Proposal, the Change will not be implemented. However, this provision does not limit the rights of either party under GCC Clause 6 (Settlement of Disputes).

39.3 Changes Originating from Supplier

If the Supplier proposes a Change pursuant to GCC Clause 39.1.2, the Supplier shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Clause 39.2.1. Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Clauses 39.2.6 and 39.2.7. However, should the Procuring Entity choose not to proceed or the Procuring Entity and the Supplier cannot come to agreement on the change during any validity period that the Supplier may specify in its Application for Change Proposal, the Supplier shall not be entitled to recover the costs of preparing the Application for Change Proposal, unless subject to an agreement between the Procuring Entity and the Supplier to the contrary.

39.4 Value engineering. The Supplier may prepare, at its own cost, a value engineering proposal at any time during the performance of the Contract.

39.4.1 The value engineering proposal shall, at a minimum, include the following;

a. The proposed change (s), and a description of the difference to the existing Contract requirements;
b. a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the Procuring Entity may incur in implementing the value engineering proposal; and
c. a description of any effect(s) of the change on performance/ functionality.

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

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

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

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

40 Extension of Time for Achieving Operational Acceptance

40.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the Supplier is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:

a) Any Change in the System as provided in GCC Clause39 (Change in the Information System);
b) Any occurrence of Force Majeure as provided in GCC Clause 38 (Force Majeure);
c) Default of the Procuring Entity; or
d) Any other matter specifically mentioned in the Contract; by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Supplier.

40.2 Except where otherwise specifically provided in the Contract, the Supplier shall submit to the Project Manager a notice of a claim for an extension of the time for achieving Operational Acceptance, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Procuring Entity and the Supplier shall agree upon the period of such extension. In the event that the Supplier does not accept the Procuring Entity's estimate of a fair and reasonable time extension, the Supplier shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 43.

40.3 The Supplier shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

41 Termination

41.1 Termination for Procuring Entity's Convenience

41.1.1 The Procuring Entity may at any time terminate the Contract for any reason by giving the Supplier a notice of termination that refers to this GCC Clause 41.1.

41.1.2 Upon receipt of the notice of termination under GCC Clause 41.1.1, the Supplier shall either as soon as reasonably practical or upon the date specified in the notice of termination

a) cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
b) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to GCC Clause (d) (ii) below;
c) Remove all Supplier's Equipment from the site, repatriate the Supplier's and its Sub contractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;
d) In addition, the Supplier, subject to the payment specified in GCC Clause 41.1.3, shall

i) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;
ii) to the extent legally possible, assign to the Procuring Entity all right, title, and benefit of the Supplier to the System, or Subsystem, as at the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;
iii) deliver to the Procuring Entity all nonproprietary drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.1.3 In the event of termination of the Contract under GCC Clause 41.1.1, the Procuring Entity shall pay to the Supplier the following amounts:

a) The Contract Price, properly attributable to the parts of the System executed by the Supplier as of the date of termination;
b) The costs reasonably incurred by the Supplier in the removal of the Supplier's Equipment from the site and in the repatriation of the Supplier's and its Subcontractors 'personnel;
c) any amount to be paid by the Supplier to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;
d) costs incurred by the Supplier in protecting the System and leaving the site in a clean and safe condition pursuant to GCC Clause 41.1.2(a); and

e) the cost of satisfying all other obligations, commitments, and claims that the Supplier may in good faith have undertaken with third parties in connection with the Contract and that are not covered by GCC Clauses 41.1.3 (a) through (d) above.

41.2 Termination for Supplier's Default

41.2.1 The Procuring Entity, without prejudice to any other rights or remedies it may possess, may terminate the Contract forth within the following circumstances by giving a notice of termination and its reasons there for to the Supplier, referring to this GCC Clause41.2:

a) If the Supplier becomes bankrupt or in solvent, has a receiving order issued against it, compounds with its creditors, or, if the Supplier is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its under taking or assets, or if the Supplier takes or suffers any other analogous action in consequence of debt;

b) If the Supplier assigns or transfers the Contractor any right or interest, there in in violation of the provision of GCC Clause 42 (Assignment); or

c) If the Supplier, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2a. of the Appendix to the GCC, in competing for or in executing the Contract, including but

d) Not limited to willful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer, the hardware, software, or materials provided under this Contract.

41.2.2 If the Supplier:

g) Has abandoned or repudiated the Contract;

h) Has without valid reason failed to commence work on the System promptly;

i) Persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause;

j) Refuses or is unable to provide sufficient Materials, Services, or labor to execute and complete the System in the manner specified in the Agreed Project Plan furnished under GCC Clause 19 at rates of progress that give reasonable assurance to the Procuring Entity that the Supplier can attain Operational Acceptance of the System by the Time for Achieving Operational Acceptance as extended; then the Procuring Entity may, without prejudice to any other rights it may possess under the Contract, give a notice to the Supplier stating the nature of the default and requiring the Supplier to remedy the same. If the Supplier fails to remedy or to take steps to remedy the same with in fourteen (14) days of its receipt of such notice, then the Procuring Entity may terminate the Contract forthwith by giving a notice of termination to the Supplier that refers to this GCC Clause 41.2.

41.2.3 Upon receipt of the notice of termination under GCC Clauses 41.2.1 or 41.2.2, the Supplier shall, either immediately or upon such date as is specified in the notice of termination:

k) cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the System already executed or any work required to leave the site in a clean and safe condition;

l) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to GCC Clause (d) below;

m) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;

n) to the extent legally possible, assign to the Procuring Entity all right, title and benefit of the Supplier to the System or Subsystems as at the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;

o) deliver to the Procuring Entity all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as at the date of termination in connection with the System.

41.2.4 The Procuring Entity may enter upon the site, expel the Supplier, and complete the System itself or by employing any third party. Upon completion of the System or at such earlier date as the Procuring Entity thinks appropriate, the Procuring Entity shall give notice to the Supplier that such Supplier's Equipment will be returned to the Supplier at or near the site and shall return such Supplier's Equipment to the Supplier in accordance with such

notice. The Supplier shall thereafter without delay and at its cost remove or arrange removal of the same from the site.

41.2.5 Subject to GCC Clause 41.2.6, the Supplier shall be entitled to be paid the Contract Price attributable to the portion of the System executed as at the date of termination and the costs, if any, incurred in protecting the System and in leaving the site in a clean and safe condition pursuant to GCC Clause 41.2.3 (a). Any sums due the Procuring Entity from the Supplier accruing prior to the date of termination shall be deducted from the amount to be paid to the Supplier under this Contract.

41.2.6 If the Procuring Entity completes the System, the cost of completing the System by the Procuring Entity shall be determined. If the sum that the Supplier is entitled to be paid, pursuant to GCC Clause 41.2.5, plus the reasonable costs incurred by the Procuring Entity in completing the System, exceeds the Contract Price, the Supplier shall be liable for such excess. If such excess is greater than the sums due the Supplier under GCC Clause41.2.5, the Supplier shall pay the balance to the Procuring Entity, and if such excess is less than the sums due the Supplier under GCC Clause 41.2.5, the Procuring Entity shall pay the balance to the Supplier. The Procuring Entity and the Supplier shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

41.3 Termination by Supplier

41.3.1 If:

a) the Procuring Entity has failed to pay the Supplier any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause pursuant to the SCC, or commits a substantial breach of the Contract, the Supplier may give a notice to the Procuring Entity that requires payment of such sum, with interest on this sum as stipulated in GCC Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Procuring Entity to remedy the same, as the case may be. If the Procuring Entity fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen

(14) days after receipt of the Supplier's notice; or

b) the Supplier is unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity, including but not limited to the Procuring Entity's failure to provide possession of or access to the site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the System; then the Supplier may give a notice to the Procuring Entity of such events, and if the Procuring Entity has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Supplier is still unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity within twenty-eight (28) days of the said notice, the Supplier may by a further notice to the Procuring Entity referring to this GCC Clause 41.3.1, forth with terminate the Contract.

41.3.2 The Supplier may terminate the Contract immediately by giving a notice to the Procuring Entity to that effect, referring to this GCC Clause 41.3.2, if the Procuring Entity becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Procuring Entity takes or suffers any other analogous action in consequence of debt.

41.3.3 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, then the Supplier shall immediately:

c) Cease all further work, except for such work as may be necessary for the purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;

d) Terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to Clause

41.3.3

(d) (ii);

e) remove all Supplier's Equipment from the site and repatriate the Supplier's and its Subcontractor's personnel from the site.

f) In addition, the Supplier, subject to the payment specified in GCC Clause 41.3.4, shall:

i) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;

ii) to the extent legally possible, assign to the Procuring Entity all right, title, and benefit of the Supplier to the System, or Subsystems, as of the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;

iii) to the extent legally possible, deliver to the Procuring Entity all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.3.4 If the Contract is terminated under GCC Clauses 41.3.1or 41.3.2, the Procuring Entity shall pay to the Supplier all payments specified in GCC Clause 41.1.3 and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Supplier arising out of, in connection with, or in consequence of such termination.

41.3.5 Termination by the Supplier pursuant to this GCC Clause 41.3 is without prejudice to any other rights or remedies of the Supplier that may be exercised in lieu of or in addition to rights conferred by GCC Clause 41.3.

41.4 In this GCC Clause 41, the expression "portion of the System executed" shall include all work executed, Services provided, and all Information Technologies, or other Goods acquired (or subject to a legally binding

41.5 Obligation to purchase) by the Supplier and used or intended to be used for the purpose of the System, up to and including the date of termination

41.6 In this GCC Clause 41, in calculating any monies due from the Procuring Entity to the Supplier, account shall be taken of any sum previously paid by the Procuring Entity to the Supplier under the Contract, including any advance payment paid pursuant to the SCC.

42 Assignment

42.l Neither the Procuring Entity nor the Supplier shall, without the express prior written consent of the other, assign to any third party the Contractor any part thereof, or any right, benefit, obligation, or interest there in or there under, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

I. Settlement of Disputes

43 Settlement of Disputes

43.1 Adjudication

43.1.1 If any dispute of any kind what so ever shall arise between the Procuring Entity and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the System (whether during the progress of implementation or after its achieving Operational Acceptance and whether before or after the termination, abandonment, or breach of the Contract), the parties shall seek to resolve any such dispute by mutual consultation. If the parties fail to resolve such a dispute by mutual consultation within fourteen (14) days after one party has notified the other in writing of the dispute, then, if the Contract Agreement in Appendix2 includes and names an Adjudicator, the dispute shall, within another fourteen (14) days, be referred in writing by either party to the Adjudicator, with a copy to the other party. If there is no Adjudicator specified in the Contract Agreement, the mutual consultation period stated above shall last twenty-eight (28) days (instead of fourteen), upon expiry of which either party may move to the notification of arbitration pursuant to GCC Clause43.2.1.

43.1.2 The Adjudicator shall give his or her decision in writing to both parties within twenty-eight (28) days of the dispute being referred to the Adjudicator. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Procuring Entity or the Supplier within fifty-six (56) days of such reference, the decision shall become final and binding upon the Procuring Entity and the Supplier. Any decision that has become final and binding shall be implemented by the parties forth with.

43.1.3 The Adjudicator shall be paid an hourly fee at the rate specified in the Contract Agreement plus reasonable expenditures incurred in the execution of duties as Adjudicator, and these costs shall be divided equally between the Procuring Entity and the Supplier.

43.1.4 Should the Adjudicator resign or die, or should the Procuring Entity and the Supplier agree that the Adjudicator is not fulfilling his or her functions in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Supplier. Failing agreement between the two within

twenty-eight (28) days, the new Adjudicator shall be appointed at the request of either party by the Appointing Authority specified in the SCC, or, if no Appointing Authority is specified in SCC, the Contract shall, from this point onward and until the parties may otherwise agree on an Adjudicator or an Appointing Authority, be implemented as if there is no Adjudicator.

43.2 Arbitration

43.2.1 If

a) the Procuring Entity or the Supplier is dissatisfied with the Adjudicator's decision and acts before this decision has become final and binding pursuant to GCC Clause 43.1.2, or

b) the Adjudicator fails to give a decision within the allotted time from referral of the dispute pursuant to GCC Clause 43.1.2, and the Procuring Entity or the Supplier acts within the following fourteen (14) days, or

c) in the absence of an Adjudicator from the Contract Agreement, the mutual consultation pursuant to GCC Clause 43.1.1 expires without resolution of the dispute and the Procuring Entity or the Supplier acts within the following fourteen (14) days, then either the Procuring Entity or the Supplier may act to give notice to the other party, with a copy for information to the Adjudicator incase an Adjudicator had been involved, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

43.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 43.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the Information System.

43.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.

43.3 Notwithstanding any reference to the Adjudicator or arbitration in this clause,

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

b) The Procuring Entity shall pay the Supplier any monies due the Supplier.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the General Conditions of Contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

i) Section VII of the tendering documents.

ii) “Implementation Schedule” means the Implementation Schedule in Section VII of the tendering documents.

iii) “Contract Price” means the price or prices defined in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.

iv) “Procurement Regulations” refers to the Regulations issued under the Public Procurement and Asset Disposal Act (2015).

v) “tendering documents” refers to the collection of documents issued by the Procuring Entity to instruct and inform potential suppliers of the processes for tendering, selection of the winning tender, and Contract formation, as well as the contractual conditions governing the relationship between the Procuring Entity and the Supplier. The General and Special Conditions of Contract, the Technical Requirements, and all other documents included in the tendering documents reflect the Procurement Regulations that the Procuring Entity is obligated to follow during procurement and administration of this Contract.

f) Entities

i) “Procuring Entity” means the entity purchasing the Information System, as **specified in the SCC.**

ii) "Project Manager" means the person **named as such in the SCC** or otherwise appointed by the Procuring Entity in the manner provided in GCC Clause 18.1 (Project Manager) to perform the duties delegated by the Procuring Entity.

iii) "Supplier" means the firm or Joint Venture whose tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

iv) "Supplier's Representative" means any person nominated by the Supplier and named as such in the Contract Agreement or otherwise approved by the Procuring Entity in the manner provided in GCC Clause18.2 (Supplier's Representative) to perform the duties delegated by the Supplier.

v) "Subcontractor" means any firm to whom any of the obligations of the Supplier, including preparation of any design or supply of any Information Technologies or other Goods or Services, is sub contracted directly or indirectly by the Supplier.

vi) "Adjudicator" means the person named in Appendix 2 of the Contract Agreement, appointed by agreement between the Procuring Entity and the Supplier to make a decision on or to settle any

g) Scope

Dispute between the Procuring Entity and the Supplier referred to him or her by the parties, pursuant to GCC Clause 43.1 (Adjudication).

i) "Information System," also called "the System," means all the Information Technologies, Materials, and other Goods to be supplied, installed, integrated, and made operational (exclusive of the Supplier's Equipment), together with the Services to be carried out by the Supplier under the Contract.

ii) "Subsystem" means any subset of the System identified as such in the Contract that may be supplied, installed, tested, and commissioned individually before Commissioning of the entire System.

iii) "Information Technologies" means all information processing and communications-related hardware, Software, supplies, and consumable items that the Supplier is required to supply and install under the Contract.

iv) "Goods" means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, the Information Technologies and Materials, but excluding the Supplier's Equipment.

v) "Services" means all technical, logistical, management, and any other Services to be provided by the Supplier under the Contract to supply, install, customize, integrate, and make operational the System. Such Services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, installation, integration, training, data migration, Pre- commissioning, Commissioning, maintenance, and technical support.

vi) "The Project Plan" means the document to be developed by the Supplier and approved by the Procuring Entity, pursuant to GCC Clause 19, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier's tender. The "Agreed Project Plan" is the version of the Project Plan approved by the Procuring Entity, in accordance with GCC Clause 19.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.

vii) "Software" means that part of the System which are instructions that cause information processing Sub systems to perform in a specific manner or execute specific operations.

viii) "System Software" means Software that provides the operating and management instructions for the underlying hardware and other components, and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Systems Software. Such System Software includes, but is not restricted to, micro-code embedded in hardware (i.e., "firmware"), operating systems, communications, system and network

management, and utility software.

ix) "General-Purpose Software" means Software that supports general-purpose office and software development activities and is identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be General-Purpose Software. Such General- Purpose Software may include, but is not restricted to, word processing, spreadsheet, generic database management, and application development software.

x) "Application Software" means Software formulated to perform specific business or technical functions and interface with the business or technical users of the System and is identified as such in Appendix4 of the Contract Agreement and such other Software as the parties may agree in writing to be Application Software.

xi) "Standard Software" means Software identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Standard Software.

xii) "Custom Software" means Software identified as such in Appendix 4 of the Contract Agreement and such other Software as the parties may agree in writing to be Custom Software.

xiii) "Source Code" means the database structures, dictionaries, definitions, program source files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Software (typically, but not exclusively, required for Custom Software).

xiv) "Materials" means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the Procuring Entity under the Contract.

xv) "Standard Materials" means all Materials not specified as Custom Materials.

xvi) "Custom Materials" means Materials developed by the Supplier at the Procuring Entity's expense under the Contract and identified as such in Appendix 5 of the Contract Agreement and such other Materials as the parties may agree in writing to be Custom Materials. Custom Materials includes Materials created from Standard Materials.

xvii) "Intellectual Property Rights" means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extractor re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sub license, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter in to computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

xviii) "Supplier's Equipment" means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the System that are to be provided by the Supplier, but excluding the Information Technologies, or other items forming part of the System.

h) Activities

i) "Delivery" means the transfer of the Goods from the Supplier to the Procuring Entity in accordance with the current edition Incoterms specified in the Contract.

ii) "Installation" means that the System or a Subsystem as specified in the Contract is ready for Commissioning as provided in GCC Clause 26 (Installation).

iii) "Pre-commissioning" means the testing, checking, and any other required activity that may be specified in the Technical Requirements that are to be carried out by the Supplier in preparation for Commissioning of the System as provided in GCC Clause 26 (Installation).

iv) "Commissioning" means operation of the System or any Subsystem by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause27.1 (Commissioning), for the purpose of carrying out Operational Acceptance Test (s).

v) "Operational Acceptance Tests" means the tests specified in the Technical Requirements and Agreed Project Plan to be carried out to ascertain whether the System, or a specified Sub system, is able to attain the functional and performance requirements specified in the Technical Requirements and Agreed Project Plan, in accordance with the provisions of GCC Clause 27.2 (Operational Acceptance Test).

vi) "Operational Acceptance" means the acceptance by the Procuring Entity of the System (or any Subsystem(s) where the Contract provides for acceptance of the System in parts), in accordance with GCC Clause27.3(Operational Acceptance).

i) Place and Time

i) "Supplier's Country" is the country in which the Supplier is legally organized, as named in the Contract Agreement.

ii) **Unless otherwise specified in the SCC** "Project Site (s)" means the place (s) in the Site Table in the Technical Requirements Section for the supply and installation of the System.

iii) "Eligible Country" means the countries and territories eligible for participation in procurements.

iv) "Day" means calendar day of the Gregorian Calendar.

v) "Week" means seven (7) consecutive Days, beginning the day of the week as is customary in Kenya.

vi) "Month" means calendar month of the Gregorian Calendar.

vii) "Year" means twelve (12) consecutive Months.

viii) "Effective Date" means the date of fulfillment of all conditions specified in Article 3 (Effective Date for Determining Time for Achieving Operational Acceptance) of the Contract Agreement, for the purpose of determining the Delivery, Installation, and Operational Acceptance dates for the System or Sub system(s).

ix) "Contract Period" is the time period during which this Contract governs the relations and obligations of the Procuring Entity and Supplier in relation to the System, as **unless otherwise specified in the SCC,** the Contract shall continue in force until the Information System and all the Services have been provided, unless the Contract is terminated earlier in accordance with the terms set out in the Contract**.**

x) "Defect Liability Period" (also referred to as the "Warranty Period") means the period of validity of the warranties given by the Supplier commencing at date of the Operational Acceptance Certificate of the System or Sub system(s), during which the Supplier is responsible for defects with respect to the System (or the relevant Sub-system[s]) as provided in GCC Clause 29 (Defect Liability).

xi) "The Coverage Period" means the Days of the Week and the hours of those Days during which maintenance, operational, and/ or technical support services (if any) must be available.

xii) The Post-Warranty Services Period" means the number of years **defined in the SCC** (if any), following the expiration of the Warranty Period during which the Supplier may be obligated to provide Software licenses, maintenance, and/ or technical support services for the System, either under this Contractor under separate contract(s).

2. Contract Documents

2.1 Subject to Article 1.2 (Order of Precedence) of the Contract Agreement, all documents forming part of the Contract (and all parts of these documents) are intended to be correlative, complementary, and mutually explanatory. The Contract shall be read as a whole.

3. Interpretation

3.1 Governing Language

3.1.1 All Contract Documents and related correspondence exchanged between Procuring Entity and Supplier shall be written in **the English Language** of these tendering documents**,** and the Contract shall be construed and interpreted in accordance with that language.

3.1.2 If any of the Contract Documents or related correspondence are prepared in a language other than the English Language under GCC Clause 3.1.1 above, the translation of such documents into the **English** language shall prevail in matters of interpretation. The originating party, with respect to such documents shall bear the costs and risks of such translation.

3.2 Singular and Plural The singular shall include the plural and the plural the singular, except where the context otherwise requires.

3.3 **Headings**
The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.

3.4 Persons
Words importing persons or parties shall include firms, corporations, and government entities.

3.5 Incoterms
Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by the Incoterms.

Incoterms means international rules for interpreting trade terms published by the International Chamber of Commerce (latest edition), 38 Cours Albert 1er, 75008 Paris, France.

3.6 Entire Agreement
The Contract constitutes the entire agreement between the Procuring Entity and Supplier with respect to the subject matter of Contract and supersedes all communications, negotiations, and agreements (whether written or oral) of parties with respect to the subject matter of the Contract made prior to the date of Contract.

3.7 Amendment

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

3.8 Independent Supplier

The Supplier shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract.

Subject to the provisions of the Contract, the Supplier shall be solely responsible for the manner in which the Contract is performed. All employees, representatives, or Sub contractors engaged by the Supplier in connection with the performance of the Contract shall be under the complete control of the Supplier and shall not be deemed to be employees of the Procuring Entity, and nothing contained in the Contractor in any sub contract awarded by the Supplier shall be construed to create any contractual relationship between any such employees, representatives, or Sub contractors and the Procuring Entity.

3.9 Joint Venture

If the Supplier is a Joint Venture of two or more firms, all such firms shall be jointly and severally bound to the Procuring Entity for the fulfillment of the provisions of the Contract and shall designate one of such firms to act as a leader with authority to bind the Joint Venture. The composition or constitution of the Joint Venture shall not be altered without the prior consent of the Procuring Entity.

3.10 Non-waiver

3.10.1 Subject to GCC Clause 3.10.2 below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contractor the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, nor shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

3.10.2Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, must be dated and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

3.11 Severability

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

3.12 Country of Origin

"Origin" means the place where the Information Technologies, Materials, and other Goods for the System were produced or from which the Services are supplied. Goods are produced when, through manufacturing, processing, Software development, or substantial and major assembly or integration of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components. The Origin of Goods and Services is distinct from the nationality of the Supplier and may be different.

4. Notices

4.1 Unless otherwise stated in the Contract, all notices to be given under the Contract shall be in writing and shall be sent, pursuant to GCC Clause 4.3 below, by personal delivery, air mail post, special courier, facsimile, electronic mail, or Electronic Data Interchange (EDI), with the following provisions.

4.1.1 Any notice sent by facsimile, electronic mail, or EDI shall be confirmed within two (2) days after dispatch by notice sent by air mail post or special courier, except as otherwise specified in the Contract.

4.1.2 Any notice sent by air mail post or special courier shall be deemed (in the absence of evidence of earlier receipt) to have been delivered ten (10) days after dispatch. In proving the fact of dispatch, it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped, and conveyed to the postal authorities or courier service for transmission by air mail or special courier.

4.1.3 Any notice delivered personally or sent by facsimile, electronic mail, or EDI shall be deemed to have been delivered on the date of its dispatch.

4.1.4 Either party may change its postal, facsimile, electronic mail, or EDI addresses for receipt of such notices by ten

(10) days' notice to the other party in writing.

4.2 Notices shall be deemed to include any approvals, consents, instructions, orders, certificates, information and other communication to be given under the Contract.

4.3 Pursuant to GCC Clause 18, notices from/to the Procuring Entity are normally given by, or addressed to, the Project Manager, while notices from/to the Supplier are normally given by, or addressed to, the Supplier's Representative, or in its absence its deputy if any. If there is no appointed Project Manager or Supplier's Representative (or deputy), or if their related authority is limited by the SCC for GCC Clauses 18.1 or 18.2.2, or for any other reason, the Procuring Entity or Supplier may give and receive notices at their fall back addresses. The address of the Project Manager and the fall back address of the Procuring Entity are as **specified in the SCC** or as subsequently established/ amended. The address of the Supplier's Representative and the fall back address of the Supplier are as specified in Appendix 1 of the Contract Agreement or as subsequently established/amended.

5. Governing Law

5.1 The Contract shall be governed by and interpreted in accordance with the laws of Kenya.

5.2 Throughout the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in Kenya when

a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or

b by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

6 Fraud and Corruption

6.1 The Procuring Entity requires compliance with the laws of Kenya on Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in its statutes.

6.2 The Procuring Entity requires the Suppliers to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

B. SUBJECT MATTER OF CONTRACT

7 Scope of the System

7.1 Unless otherwise expressly **limited in the SCC** or Technical Requirements, the Supplier's obligations cover the provision fall Information Technologies, Materials and other Goods as well as the performance of all Services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the System, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the Contract and the Agreed Project Plan.

7.2 The Supplier shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the System as if such work and/or items and Materials were expressly mentioned in the Contract.

7.3 The Supplier's obligations (if any) to provide Goods and Services as implied by the Recurrent Cost tables of the Supplier's tender, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and operational support), areas **specified in the SCC,** including the relevant terms, characteristics, and timings.

8 Time for Commencement and Operational Acceptance

8.1 The Supplier shall commence work on the System with in the period **specified in the SCC,** and without prejudice to GCC Clause 28.2, the Supplier shall there after proceed with the System in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan.

8.2 The Supplier shall achieve Operational Acceptance of the System (or Subsystem(s) where a separate time for Operational Acceptance of such Sub system (s) is specified in the Contract) in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

9 Supplier's Responsibilities

9.1 The Supplier shall conduct all activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of information technologies, information systems, support, maintenance, training, and other related services, or in accordance with best industry practices. In particular, the Supplier shall provide and employ only technical personnel who are skilled and experienced in the irrespective callings and supervisory staff who are competent to adequately supervise the work at hand.

9.2 The Supplier confirms that it has entered into this Contract on the basis of a proper examination of the data relating to the System provided by the Procuring Entity and on the basis of information that the Supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the Supplier relating to the System as at the date twenty-eight (28) days prior to tender submission. The Supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the Contract.

9.3 The Supplier shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed Project Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision-making may constitute grounds for termination pursuant to GCC Clause 41.2.

9.4 The Supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in Kenya that are necessary for the performance of the Contract, including, without limitation, visas for the Supplier's and Subcontractor's personnel and entry permits for all imported Supplier's Equipment. The Supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the Procuring Entity under GCC Clause 10.4 and that are necessary for the performance of the Contract.

9.5 The Supplier shall comply with all laws in force in Kenya. The laws will include all national, provincial, municipal, or other laws that affect the performance of the Contract and are binding upon the Supplier. The Supplier shall indemnify and hold harmless the Procuring Entity from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature a rising or resulting from the violation of such laws by the Supplier or its personnel, including the Sub contractors and their personnel, but without prejudice to GCC Clause 10.1. The Supplier shall not indemnify the Procuring Entity to the extent that such liability, damage, claims, fines, penalties, and expenses were caused or contributed to by a fault of the Procuring Entity.

9.6 The Supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the Contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.

9.7 Any Information Technologies or other Goods and Services that will be incorporated in or be required for the System and other supplies shall have their Origin, as defined in GCC Clause 3.12, in a country that shall be an Eligible Country, as defined in GCC Clause 1.1 (e) (iv).

9.8 Pursuant to paragraph 2.2e. of Appendix B to the General Conditions the Supplier shall permit and shall cause its subcontractors and sub-consultants to permit, the PPRA and/or persons appointed by the PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Supplier's and its Sub contractors' and sub-consultants' attention is drawn to Sub-Clause 6.1 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of in eligibility pursuant to the PPRA's prevailing sanctions procedures).

9.9 The Supplier shall conform to the sustainable procurement contractual provisions, if and as **specified in the SCC.**

9.10 **Unless otherwise specified in the SCC** the Supplier shall have no other Supplier responsibilities.

10 Procuring Entity's Responsibilities

10.1 The Procuring Entity shall ensure the accuracy of all information and/or data to be supplied by the Procuring Entity to the Supplier, except when otherwise expressly stated in the Contract.

10.2 The Procuring Entity shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed Project Plan (pursuant to GCC Clause 19.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision making may constitute grounds for Termination pursuant to GCC Clause 41.3.1(b).

10.3 The Procuring Entity shall be responsible for acquiring and providing legal and physical possession of the site and access to it, and for providing possession of and access to all other are as reasonably required for the proper execution of the Contract.

10.4 If requested by the Supplier, the Procuring Entity shall use its best endeavors to assist the Supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the Contract from all local, state, or national government authorities or public service undertakings that such authorities or under takings require the Supplier or Sub contractors or the personnel of the Supplier or Sub contractors, as the case may be, to obtain.

10.5 In such cases where the responsibilities of specifying and acquiring or upgrading telecommunications and/or electric power services falls to the Supplier, as specified in the Technical Requirements, SCC, Agreed Project Plan, or other parts of the Contract, the Procuring Entity shall use its best endeavors to assist the Supplier in obtaining such services in a timely and expeditious manner.

10.6 The Procuring Entity shall be responsible for timely provision of all resources, access, and information necessary for the Installation and Operational Acceptance of the System (including, but not limited to, any required telecommunications or electric power services), as identified in the Agreed Project Plan, except where provision of such items is explicitly identified in the Contract as being the responsibility of the Supplier. Delay by the Procuring Entity may result in an appropriate extension of the Time for Operational Acceptance, at the Supplier's discretion.

10.7 Unless otherwise specified in the Contractor agreed upon by the Procuring Entity and the Supplier, the Procuring Entity shall provide sufficient, properly qualified operating and technical personnel, as required by the Supplier to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Implementation Schedule and the Agreed Project Plan.

10.8 The Procuring Entity will designate appropriate staff for the training courses to be given by the Supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, SCC, the Agreed Project Plan, or other parts of the Contract.

10.9 The Procuring Entity assumes primary responsibility for the Operational Acceptance Test (s) for the System, in accordance with GCC Clause 27.2, and shall be responsible for the continued operation of the System after Operational Acceptance. However, this shall not limit in anyway the Supplier's responsibilities after the date of Operational Acceptance otherwise specified in the Contract.

10.10 The Procuring Entity is responsible for performing and safely storing timely and regular backups of its data and Software in accordance with accepted data management principles, except where such responsibility is clearly assigned to the Supplier elsewhere in the Contract.

10.11 All costs and expenses involved in the performance of the obligations under this GCC Clause 10 shall be the responsibility of the Procuring Entity, save those to be incurred by the Supplier with respect to the performance of the Operational Acceptance Test (s), in accordance with GCC Clause 27.2.

10.12 **Unless otherwise specified in the SCC** the Procuring Entity shall have no other Procuring Entity

responsibilities.

C. Payment

11 Contract Price

11.1 The Contract Price shall be as specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.

11.2 Unless an adjustment clause is **provided for in the SCC,** the Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a Change in the System pursuant to GCC Clause 39 or to other clauses in the Contract;

11.3 The Supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

11.4 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (*which would be the tender price*), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: *(corrected tender price–tender price)/ tender price X 100.*

12 Terms of Payment

12.1 The Supplier's request for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the System or Subsystem(s), Delivered, Pre-commissioned, Installed, and Operationally Accepted, and by documents submitted pursuant to GCC Clause 22.5 and upon fulfillment of other obligations stipulated in the Contract. The Contract Price shall be paid as **specified in the SCC.**

12.2 No payment made by the Procuring Entity herein shall be deemed to constitute acceptance by the Procuring Entity of the System or any Sub system (s).

12.3 Payments shall be made promptly by the Procuring Entity, but in no case later than (sixty (60) days after submission of a valid invoice and upon satisfactorily performance of the contractual obligations by the Supplier. In the event that the Procuring Entity fails to make any payment by its respective due date or within the period set forth in the Contract, the Procuring Entity shall pay to the Supplier interest on the amount of such delayed payment at the rate (s) **specified in the SCC** for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.

12.4 Payments shall be made in the currency (ies) specified in the Contract Agreement, pursuant to GCC Clause 11. For Goods and Services supplied locally, payments shall be made **as specified in the SCC.**

12.5 **Unless otherwise specified in the SCC,** payment of the foreign currency portion of the Contract Price for Goods supplied from outside Kenya shall be made to the Supplier through an irrevocable Form of credit opened by an authorized bank in the Supplier's Country and will be payable on presentation of the appropriate documents. It is agreed that the Form of credit will be subject to Article10 of the latest revision of *Uniform Customs and Practice for Documentary Credits*, published by the International Chamber of Commerce, Paris.

13 Securities

13.1 **Issuance of Securities**
The Supplier shall provide the securities specified below in favor of the Procuring Entity at the times and in the amount, manner, and form specified below.

13.2 Advance Payment Security

a) Unless otherwise specified in the SCC, the Supplier shall provide within twenty-eight (28) days of the notification of Contract award an Advance Payment Security in the amount and currency of the Advance Payment specified in SCC for GCC Clause 12.1 above and valid until the System is Operationally Accepted.

b) The security shall be in the form provided in the tendering documents or in another form acceptable to the Procuring Entity. The amount of the security shall be reduced in proportion to the value of the System executed by and paid to the Supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the Procuring Entity. **Unless otherwise specified in the SCC,** the reduction in value and expiration of the Advance Payment Security are calculated as follows:

P*a/(100-a), where "P" is the sum of all payments effected so far to the Supplier (excluding the Advance Payment), and "a" is the Advance Payment expressed as a percentage of the Contract Price pursuant to the SCC for GCC Clause12.1.

The security shall be returned to the Supplier immediately after its expiration.

13.3 Performance Security

13.3.1 The Supplier shall, within twenty-eight (28) days of the notification of Contract award, provide a security for the due performance of the Contract in the amount and currency **specified in the SCC**.

13.3.2 The security shall be a bank guarantee in the form provided in the Sample Contractual Forms Section of the tendering documents, or it shall be in another form acceptable to the Procuring Entity.

13.3.3 The security shall automatically become null and void once all the obligations of the Supplier under the Contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the Supplier no later than twenty-eight (28) days after its expiration.

13.3.4 Upon Operational Acceptance of the entire System, the security shall be reduced to the amount specified in the SCC, on the date of the Operational Acceptance, so that the reduced security would only cover the remaining warranty obligations of the Supplier.

14 Taxes and Duties

14.1 For Goods or Services supplied from outside and inside Kenya, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Kenya and inside Kenya, and these duties or taxes shall be made part of the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to, in which case the duties and taxes will be the Supplier's responsibility.

14.2 For Goods or Services supplied locally, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods or Services to the Procuring Entity. The only exception are taxes or duties, such as value-added or sales tax or stamp duty as apply to, or are clearly identifiable, on the invoices and provided they apply in Kenya, and only if these taxes, levies and/or duties are also excluded from the Contract Price in Article 2 of the Contract Agreement and the Price Schedule it refers to.

14.3 If any tax exemptions, reductions, allowances, or privileges may be available to the Supplier in Kenya, the Procuring Entity shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

14.4 For the purpose of the Contract, it is agreed that the Contract Price specified in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of tender submission in Kenya (also called "Tax" in this GCC Clause 14.4). If any Tax rates are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of the Contract, which was or will be assessed on the Supplier, its Sub contractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

D. Intellectual Property

15 Copyright

15.1 The Intellectual Property Rights in all Standard Software and Standard Materials shall remain vested in the

owner of such rights.

15.2 The Procuring Entity agrees to restrict use, copying, or duplication of the Standard Software and Standard Materials in accordance with GCC Clause16, except that additional copies of Standard Materials may be made by the Procuring Entity for use within the scope of the project of which the System is apart, in the event that the Supplier does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.

15.3 The Procuring Entity's contractual rights to use the Standard Software or elements of the Standard Software may not be assigned, licensed, or otherwise transferred voluntarily except in accordance with the relevant license agreement or **unless otherwise specified in the SCC** to a legally constituted successor organization (e.g., a reorganization of a public entity formally authorized by the government or through a merger or acquisition of a private entity)**.**

15.4 **Unless otherwise specified in the SCC,** the Intellectual Property Rights in all Custom Software and Custom Materials specified in Appendices 4 and 5 of the Contract Agreement (if any) shall, at the date of this Contractor on creation of the rights (if later than the date of this Contract), vest in the Procuring Entity. The Supplier shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the Procuring Entity may consider necessary or desirable to perfect the right, title, and interest of the Procuring Entity in and to those rights. In respect of such Custom Software and Custom Materials, the Supplier shall ensure that the holder of am or alright in such an item does not assert it, and the Supplier shall, if requested to do so by the Procuring Entity and where permitted by applicable law, ensure that the holder of such a moral right waives it.

15.5 **Unless otherwise specified in the SCC**, escrow arrangements shall NOT be required.

16 Software License Agreements

16.1 Except to the extent that the Intellectual Property Rights in the Software vest in the Procuring Entity, the Supplier here by grants to the Procuring Entity license to access and use the Software, including all inventions, designs, and marks embodied in the Software.
Such license to access and use the Software shall:

a) be:
   i. non-exclusive;
   ii. fully paid up and irrevocable (except that it shall terminate if the Contract terminates under GCC Clauses 41.1 or 41.3);
   iii. **unless otherwise specified in the SCC** valid throughout Kenya;
   iv. **unless otherwise specified in the SCC subject** to NO additional restrictions.

b) Permit the Software to be:

i. used or copied for use on or with the computer(s) for which it was acquired (if specified in the Technical Requirements and/or the Supplier's tender), plus a backup computer(s) of the same or similar capacity, if the primary is (are) in operative, and during a reasonable transitional period when use is being transferred between primary and back up;

ii. used or copied for use on or transferred to are placement computer (s), (and use on the original and replacement computer(s) may be simultaneous during a reasonable transitional period) provided that, if the Technical Requirements and/or the Supplier's tender specifies a class of computer to which the license is restricted, the replacement computer (s) is (are) within that class;

iii. if the nature of the System is such as to permit such access, accessed from other computers connected to the primary and/or back up computer (s) by means of a local or wide-area network or similar arrangement, and used on or copied for use on those other computers to the extent necessary to that access;

iv. reproduced for safe keeping or back up purposes;

v. customized, adapted, or combined with other computer software for use by the Procuring Entity, provided that derivative software incorporating any substantial part of the delivered, restricted Software shall be subject to same restrictions as a reset forth in this Contract;

vi. **unless otherwise specified in the SCC,** disclosed to, and reproduced for use by, support service suppliers and their sub-contractors, (and the Procuring Entity may sub-license such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as a reset forth in this Contract; and

vii. **unless otherwise specified in the SCC** disclosed to, and reproduced for use by, NO other parties.

16.2 TheSupplierhastherighttoauditttheStandardSoftwaretoverifycompliancewiththeabovelicenseagreements.

Unless otherwise specified in the SCC, the Procuring Entity will make available to the Supplier, within seven (7) days of a written request, accurate and up-to-date records of the number and location of copies, the number of authorized users, or any other relevant data required to demonstrate use of the Standard Software as per the license agreement. If and only if, expressly agreed in writing between the Procuring Entity and the Supplier, Procuring Entity will allow, under a pre-specified agreed procedure, the execution of embedded software functions under Supplier's control, and unencumbered transmission of resulting information on software usage.

17 Confidential Information

17.1 **Unless otherwise specified in the SCC,** the" Receiving Party" (either the Procuring Entity or the Supplier) shall keep confidential and shall not, without the written consent of the other party to this Contract ("the Disclosing Party"), divulge to any third party any documents, data, or other information of a confidential nature ("Confidential Information") connected with this Contract, and furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of this Contract.

17.2 For the purposes of GCC Clause 17.1, the Supplier is also deemed to be the Receiving Party of Confidential Information generated by the Supplier itself in the course of the performance of its obligations under the Contract and relating to the businesses, finances, suppliers, employees, or other contacts of the Procuring Entity or the Procuring Entity's use of the System.

17.3 Notwithstanding GCC Clauses 17.1 and 17.2:

a) the Supplier may furnish to its Subcontractor Confidential Information of the Procuring Entity to the extent reasonably required for the Subcontractor to perform its work under the Contract; and

b) the Procuring Entity may furnish Confidential Information of the Supplier: (i) to its support service suppliers and their subcontractors to the extent reasonably required for them to perform their work under their support service contracts; and (ii) to its affiliates and subsidiaries, in which event the Receiving Party shall ensure that the person to whom it furnishes Confidential Information of the Disclosing Party is aware of and a tenderer by the Receiving Party's obligations under this GCC Clause 17 as if that person were party to the Contract in place of the Receiving Party.

17.4 The Procuring Entity shall not, without the Supplier's prior written consent, use any Confidential Information received from the Supplier for any purpose other than the operation, maintenance and further development of the System. Similarly, the Supplier shall not, without the Procuring Entity's prior written consent, use any Confidential Information received from the Procuring Entity for any purpose other than those that are required for the performance of the Contract.

17.5 The obligation of a party under GCC Clauses 17.1 through 17.4 above, however, shall not apply to that information which:

a) Now or hereafter enters the public domain through no fault of the Receiving Party;
b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;
c) otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.

17.6 The above provisions of this GCC Clause17 shall not in any way modify any undertaking of confidentiality given by either of the parties to this Contract prior to the date of the Contract in respect of the System or any part thereof.

17.7 **Unless otherwise specified in the SCC**, the provisions of this GCC Clause17 shall survive the termination, for whatever reason, of the Contract for three (3) years.

E. Supply, Installation, Testing, Commissioning, and Acceptance of the System

18 Representatives

18.1 Project Manager

If the Project Manager is not named in the Contract, then within fourteen (14) days of the Effective Date, the Procuring Entity shall appoint and notify the Supplier in writing of the name of the Project Manager. The Procuring Entity may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the Supplier without

delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the System. Such appointment shall take effect only upon receipt of such notice by the Supplier. **Unless otherwise specified in the SCC** (if any), the Project Manager shall have the authority to represent the Procuring Entity on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Procuring Entity pursuant to GCC Clause4.

18.2 Supplier's Representative

18.2.1 If the Supplier's Representative is not named in the Contract, then with in fourteen (14) days of the Effective Date, the Supplier shall appoint the Supplier's Representative and shall request the Procuring Entity in writing to approve the person so appointed. The request must be accompanied by a detailed curriculum vitae for the nominee, as well as a description of any other System or non-System responsibilities the nominee would retain while performing the duties of the Supplier's Representative. If the Procuring Entity does not object to the appointment within fourteen (14) days, the Supplier's Representative shall be deemed to have been approved. If the Procuring Entity objects to the appointment within fourteen (14) days giving the reason therefor, then the Supplier shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 18.2.1.

18.2.2 **Unless otherwise specified in the SCC** (if any), the Supplier's Representative shall have the authority to represent the Supplier on all day-to-day matters relating to the System or arising from the Contract, and shall normally be the person giving or receiving notices on behalf of the Supplier pursuant to GCC Clause 4.

18.2.3The Supplier shall not revoke the appointment of the Supplier's Representative without the Procuring Entity's prior written consent, which shall not be unreasonably withheld. If the Procuring Entity consents to such an action, the Supplier shall appoint another person of equal or superior qualifications as the Supplier's Representative, pursuant to the procedure set out in GCC Clause 18.2.1.

18.2.4 The Supplier's Representative and staff are obliged to work closely with the Procuring Entity's Project Manager and staff, act within their own authority, and a tenderer by directives issued by the Procuring Entity that are consistent with the terms of the Contract. The Supplier's Representative is responsible for managing the activities of its personnel and any subcontracted personnel.

18.2.5 The Supplier's Representative may, subject to the approval of the Procuring Entity (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions, and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the Supplier's Representative and shall specify the powers, functions, and authorities there by delegated or revoked. No such delegation or revocation shall take effect unless and until the notice of it has been delivered.

18.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause18.2.5shall be deemed to be an act or exercise by the Supplier's Representative.

18.3 Objections and Removals

18.3.1 The Procuring Entity may by notice to the Supplier object to any representative or person employed by the Supplier in the execution of the Contract who, in the reasonable opinion of the Procuring Entity, may have behaved inappropriately, be incompetent, or be negligent. The Procuring Entity shall provide evidence of the same, where upon the Supplier shall remove such person from work on the System.

18.3.2 If any representative or person employed by the Supplier is removed in accordance with GCC Clause18.3.1, the Supplier shall, where required, promptly appoint a replacement.

19 Project Plan

19.1 In close cooperation with the Procuring Entity and based on the Preliminary Project Plan included in the Supplier's tender, the Supplier shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project Plan shall be as **specified in the SCC** and/ or Technical Requirements.

19.2 **Unless otherwise specified in the SCC**, within thirty (30) days from the Effective Date of the Contract, the Supplier shall present a Project Plan to the Procuring Entity. The Procuring Entity shall, within fourteen (14)

days of receipt of the Project Plan, notify the Supplier of any respects in which it considers that the Project Plan does not adequately ensure that the proposed program of work, proposed methods, and/or proposed Information Technologies will satisfy the Technical Requirements and/or the SCC (in this Clause 19.2 called "non-conformities" below). The Supplier shall, within five (5) days of receipt of such notification, correct the Project Plan and resubmit to the Procuring Entity. The Procuring Entity shall, within five (5) days of resubmission of the Project Plan, notify the Supplier of any remaining non-conformities. This procedure shall be repeated as necessary until the Project Plan is free from non-conformities. When the Project Plan is free from non-conformities, the Procuring Entity shall provide confirmation in writing to the Supplier. This approved Project Plan ("the Agreed Project Plan") shall be contractually binding on the Procuring Entity and the Supplier.

19.3 If required, the impact on the Implementation Schedule of modifications agreed during finalization of the Agreed Project Plan shall be incorporated in the Contract by amendment, in accordance with GCC Clauses 39 and 40.

19.4 The Supplier shall undertake to supply, install, test, and commission the System in accordance with the Agreed Project Plan and the Contract.

19.5 **Unless otherwise specified in the SCC**, the Supplier shall submit to the Procuring Entity Monthly Progress Reports summarizing:

i) Results accomplished during the prior period;

ii) cumulative deviations to date from schedule of progress milestones as specified in the Agreed Project Plan;

iii) corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;

iv) other issues and outstanding problems; proposed actions to be taken;

v) resources that the Supplier expects to be provided by the Procuring Entity and/ or actions to be taken by the Procuring Entity in the next reporting period;

vi) other issues or potential problems the Supplier foresees that could impact on project progress and/or effectiveness.

19.6 The Supplier shall submit to the Procuring Entity other (periodic) reports **as specified in the SCC**.

20 Sub-contracting

20.1 Appendix 3 (List of Approved Subcontractors) to the Contract Agreement specifies critical items of supply or services and a list of Subcontractors for each item that are considered acceptable by the Procuring Entity. If no Subcontractors are listed for an item, the Supplier shall prepare a list of Subcontractors it considers qualified and wishes to be added to the list for such items. The Supplier may from time to time propose additions to or deletions from any such list. The Supplier shall submit any such list or any modification to the list to the Procuring Entity for its approval insufficient time so as not to impede the progress of work on the System. The Procuring Entity shall not withhold such approval unreasonably. Such approval by the Procuring Entity of a Subcontractor (s) shall not relieve the Supplier from any of its obligations, duties, or responsibilities under the Contract.

20.2 The Supplier may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 20.1. If the Supplier wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the Procuring Entity's prior approval under GCC Clause 20.3.

20.3 For items for which pre-approved Subcontractor lists have not been specified in Appendix 3 to the Contract Agreement, the Supplier may employ such Subcontractors as it may select, provided: (i) the Supplier notifies the Procuring Entity in writing at least twenty-eight (28) days prior to the proposed mobilization date for such Subcontractor; and (ii) by the end of this period either the Procuring Entity has granted its approval in writing or fails to respond. The Supplier shall not engage any Subcontract or to which the Procuring Entity has objected in writing prior to the end of the notice period. The absence of a written objection by the Procuring Entity during the above specified period shall constitute formal acceptance of the proposed Subcontractor. Except to the extent that it permits the deemed approval of the Procuring Entity of Subcontractors not listed in the Contract Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the Procuring Entity or Supplier as they are specified in GCC Clauses 20.1 and 20.2, or in Appendix3 of the Contract Agreement.

21 Design and Engineering

21.1 Technical Specifications and Drawings

21.1.1 The Supplier shall execute the basic and detailed design and the implementation activities necessary for successful installation of the System in compliance with the provisions of the Contractor, where not so specified, in accordance with good industry practice.

The Supplier shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of in accurate information furnished in writing to the Supplier by or on behalf of the Procuring Entity.

21.1.2 The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Project Manager.

21.2 Codes and Standards

Wherever references are made in the Contract to codes and standards in accordance with which the Contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of tender submission shall apply. During Contract execution, any changes in such codes and standards shall be applied after approval by the Procuring Entity and shall be treated in accordance with GCC Clause 39.3.

21.3 Approval/ Review of Controlling Technical Documents by the Project Manager

21.3.2 **Unless otherwise specified in the SCC**, there will NO Controlling Technical Documents required. However, **if the SCC specifies** Controlling Technical Documents, the Supplier shall prepare and furnish such documents for the Project Manager's approval or review.

Any part of the System covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager's approval of these documents.

GCC Clauses 21.3.2 through 21.3.7 shall apply to those documents requiring the Project Manager's approval, but not to those furnished to the Project Manager for its review only.

21.3.3 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager's approval in accordance with GCC Clause 21.3.1, the Project Manager shall either return one copy of the document to the Supplier with its approval endorsed on the document or shall notify the Supplier in writing of its disapproval of the document and the reasons for disapproval and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the fourteen (14) days, then the document shall be deemed to have been approved by the Project Manager.

21.3.4 The Project Manager shall not disapprove any document except on the grounds that the document does not comply with some specified provision of the Contract or that it is contrary to good industry practice.

21.3.5 If the Project Manager disapproves the document, the Supplier shall modify the document and resubmit it for the Project Manager's approval in accordance with GCC Clause 21.3.2. If the Project Manager approves the document subject to modification(s), the Supplier shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 21.3.5. The procedure set out in GCC Clauses 21.3.2 through 21.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents.

21.3.6 If any dispute occurs between the Procuring Entity and the Supplier in connection with or arising out of the disapproval by the Project Manager of any document and/ or any modification (s) to a document that cannot be settled between the parties within a reasonable period, then, in case the Contract Agreement includes and names an Adjudicator, such dispute may be referred to the Adjudicator for determination in accordance with GCC Clause 43.1 (Adjudication). If such dispute is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the Contract is to proceed. The Supplier shall proceed with the Contract in accordance with the Project Manager's instructions, provided that if the Adjudicator upholds the Supplier's view on the dispute and if the Procuring Entity has not given notice under GCC Clause 43.1.2, then the Supplier shall be reimbursed by the Procuring Entity for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Achieving Operational Acceptance shall be extended accordingly.

21.3.7 The Project Manager's approval, with or without modification of the document furnished by the Supplier, shall not relieve the Supplier of any responsibility or liability imposed upon it by any provisions of the Contract except to the extent that any subsequent failure results from modifications required by the Project

Manager or inaccurate information furnished in writing to the Supplier by or on behalf of the Procuring Entity.

21.3.8 The Supplier shall not depart from any approved document unless the Supplier has first submitted to the Project Manager an amended document and obtained the Project Manager's approval of the document, pursuant to the provisions of this GCC Clause 21.3. If the Project Manager requests any change in any already approved document and/or in any document based on such an approved document, the provisions of GCC Clause 39 (Changes to the System) shall apply to such request.

22 Procurement, Delivery, and Transport

22.1 Subject to related Procuring Entity's responsibilities pursuant to GCC Clauses 10 and 14, the Supplier shall manufacture or procure and transport all the Information Technologies, Materials, and other Goods in an expeditious and orderly manner to the Project Site.

22.2 Delivery of the Information Technologies, Materials, and other Goods shall be made by the Supplier in accordance with the Technical Requirements.

22.3 Early or partial deliveries require the explicit written consent of the Procuring Entity; which consent shall not be unreasonably withheld.

22.4 Packaging and Transportation

22.4.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during shipment. The packing, marking, and documentation within and outside the packages shall comply strictly with the Procuring Entity's instructions to the Supplier.

22.4.2 The Supplier will bear responsibility for and cost of transport to the Project Sites in accordance with the terms and conditions used in the specification of prices in the Price Schedules, including the terms and conditions of the associated Inco terms.

22.4.3 **Unless otherwise specified in the SCC,** the Supplier shall be free to use transportation through carriers registered in any eligible country and to obtain insurance from any eligible source country.

Unless otherwise specified in the SCC, the Supplier will provide the Procuring Entity with shipping and other documents, as specified below:

22.4.4 For Goods supplied from outside Kenya:
Upon shipment, the Supplier shall notify the Procuring Entity and the insurance company contracted by the Supplier to provide cargo insurance by cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the following documents to the Procuring Entity by mail or courier, as appropriate, with a copy to the cargo insurance company:

a Two copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount;

b usual transportation documents;

c insurance certificate;

d certificate (s) of origin; and

e estimated time and point of arrival in Kenya and at the site.

25.5.2 For Goods supplied locally (i.e., from within Kenya):

Upon shipment, the Supplier shall notify the Procuring Entity by cable, facsimile, electronic mail, or EDI with the full details of the shipment. The Supplier shall promptly send the following documents to the Procuring Entity by mail or courier, as appropriate:

a Two copies of the Supplier's invoice showing the Goods' description, quantity, unit price, and total amount;
b Delivery note, railway receipt, or truck receipt;
c certificate of insurance;
d certificate (s) of origin; and
e estimated time of arrival at the site.

25.6 Customs Clearance

a) The Procuring Entity will bear responsibility for, and cost of, customs clearance into Kenya in accordance with the particular Incoterm(s) used for Goods supplied from outside Kenya in the Price Schedules referred to by Article2 of the Contract Agreement.

b) At the request of the Procuring Entity, the Supplier will make available a representative or agent during the process of customs clearance in Kenya for goods supplied from outside Kenya. In the event of delays in customs clearance that are not the fault of the Supplier:

i) the Supplier shall be entitled to an extension in the Time for Achieving Operational Acceptance, pursuant to GCC Clause40;

ii) the Contract Price shall be adjusted to compensate the Supplier for any additional storage charges that the Supplier may incur as a result of the delay.

23 Product Upgrades

23.1 At any point during performance of the Contract, should technological advances be introduced by the Supplier for Information Technologies originally offered by the Supplier in its tender and still to be delivered, the Supplier shall be obligated to offer to the Procuring Entity the latest versions of the available Information Technologies having equal or better performance or functionality at the same or lesser unit prices, pursuant to GCC Clause39 (Changes to the System).

23.2 At any point during performance of the Contract, for Information Technologies still to be delivered, the Supplier will also pass on to the Procuring Entity any cost reductions and additional and/ or improved support and facilities that it offers to other clients of the Supplier in Kenya, pursuant to GCC Clause39 (Changes to the System).

23.3 During performance of the Contract, the Supplier shall offer to the Procuring Entity all new versions, releases, and updates of Standard Software, as well as related documentation and technical support services, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in Kenya, and no later than twelve (12) months after they are released in the country of origin. In no case will the prices for these Software exceed those quoted by the Supplier in the Recurrent Costs tables in its tender.

23.4 **Unless otherwise specified in the SCC,** during the Warranty Period, the Supplier will provide at no additional cost to the Procuring Entity all new versions, releases, and updates for all Standard Software that are used in the System, within thirty (30) days of their availability from the Supplier to other clients of the Supplier in Kenya, and no later than twelve (12) months after they are released in the country of origin of the Software.

23.5 The Procuring Entity shall introduce all new versions, releases or updates of the Software within eighteen (18) months of receipt of a production-ready copy of the new version, release, or update, provided that the new version, release, or update does not adversely affect System operation or performance or require extensive reworking of the System. In cases where the new version, release, or update adversely affects System operation or performance, or requires extensive reworking of the System, the Supplier shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update. In no case shall the Supplier stop supporting or maintaining a version or release of the Software less than twenty-four (24) months after the Procuring Entity receives a production-ready copy of a subsequent version, release, or update. The Procuring Entity shall use all reasonable endeavors to implement any new version, release, or update as soon as practicable, subject to the twenty-four-month-long stop date.

24 Implementation, Installation, and Other Services

24.1 The Supplier shall provide all Services specified in the Contract and Agreed Project Plan in accordance with the highest standards of professional competence and integrity.

24.2 Prices charged by the Supplier for Services, if not included in the Contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the Supplier in the Recurrent Cost Schedules of its Tender) and shall not exceed the prevailing rates charged by the Supplier to other Procuring Entity's in Kenya for similar services.

25 Inspections and Tests

25.1 The Procuring Entity or its representative shall have the right to inspect and/or test any components of the System, as specified in the Technical Requirements, to confirm their good working order and/ or conformity to the Contract at the point of delivery and/ or at the Project Site.

25.2 The Procuring Entity or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the Procuring Entity shall bear all costs and expenses incurred in connection with such attendance, including but not limited to all inspection agent fees, travel, and related expenses.

25.3 Should the inspected or tested components fail to conform to the Contract, the Procuring Entity may reject the component (s), and the Supplier shall either replace the rejected component (s), or make alterations as necessary so that it meets the Contract requirements free of cost to the Procuring Entity.

25.4 The Project Manager may require the Supplier to carry out any inspection and/or test not specified in the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such inspection and/ or test shall be added to the Contract Price. Further, if such inspection and/ or test impedes the progress of work on the System and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Time for Achieving Operational Acceptance and the other obligations so affected.

25.5 If any dispute shall arise between the parties in connection with or caused by an inspection and/ or with regard to any component to be incorporated in the System that cannot be settled amicably between the parties within a reasonable period of time, either party may invoke the process pursuant to GCC Clause 43 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is included and named in the Contract Agreement.

26 Installation of the System

26.1 As soon as the System, or any Subsystem, has, in the opinion of the Supplier, been delivered, Pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Technical Requirements, the SCC and the Agreed Project Plan, the Supplier shall so notify the Procuring Entity in writing.

26.2 The Project Manager shall, within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1, either issue an Installation Certificate in the form specified in the Sample Contractual Forms Section in the tendering documents, stating that the System, or major component or Subsystem (if Acceptance by major component or Sub system is specified pursuant to the SCC for GCC Clause27.2.1), has achieved Installation by the date of the Supplier's notice under GCC Clause 26.1, or notify the Supplier in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components and/or Subsystems making up the System. The Supplier shall use all reasonable endeavors to promptly remedy any defect and/ or deficiencies that the Project Manager has notified the Supplier of. The Supplier shall then promptly carryout retesting of the System or Sub system and, when in the Supplier's opinion the System or Sub system is ready for Commissioning and Operational Acceptance Testing, notify the Procuring Entity in writing, in accordance with GCC Clause 26.1. The procedure set out in this GCC Clause shall be repeated, as necessary, until an Installation Certificate is issued.

26.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the Supplier of any defects and/or deficiencies within fourteen (14) days after receipt of the Supplier's notice under GCC Clause 26.1,or if the Procuring Entity puts the System or a Subsystem in to production operation, then the System (or Subsystem) shall be deemed to have achieved successful Installation as of the date of the Supplier's notice or repeated notice, or when the Procuring Entity put the System in to production operation, as the case may be.

27 Commissioning and Operational Acceptance

27.1 Commissioning

27.1.1 Commissioning of the System (or Subsystem if specified pursuant to the SCC for GCC Clause 27.2.1) shall be commenced by the Supplier:

a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 26.2; or

b) as otherwise specified in the Technical Requirement or the Agreed Project Plan; or

c) immediately after Installation is deemed to have occurred, under GCC Clause 26.3.

27.1.2 The Procuring Entity shall supply the operating and technical personnel and all materials and information reasonably required to enable the Supplier to carry out its obligations with respect to Commissioning. Production use of the System or Subsystem(s) shall not commence prior to the start of formal Operational Acceptance Testing.

27.2 Operational Acceptance Tests

27.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the Procuring Entity (in accordance with GCC Clause 10.9), but shall be conducted with the full cooperation of the Supplier during Commissioning of the System (or major components or Subsystem[s]), to ascertain whether the System (or major component or Subsystem[s]) conforms to the Technical Requirements and meets the standard of performance quoted in the Supplier's tender, including, but not restricted to, the functional and technical performance requirements. **Unless otherwise specified in the SCC**, the Operational Acceptance Tests during Commissioning will be conducted as specified in the Technical Requirements and/ or the Agreed Project Plan. At the Procuring Entity's discretion, Operational Acceptance Tests may also be performed on replacement Goods, upgrades and new version releases, and Goods that are added or field-modified after Operational Acceptance of the System.

27.2.2 If for reasons attributable to the Procuring Entity, the Operational Acceptance Test of the System (or Subsystem[s] or major components, pursuant to the SCC for GCC Clause 27.2.1) cannot be successfully completed within ninety (90) days from the date of Installation or any other period agreed upon in writing by the Procuring Entity and the Supplier, the Supplier shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Technical Specifications, SCC and/ or the Agreed Project Plan, and GCC Clause 28.2 and 28.3 shall not apply.

27.3 Operational Acceptance

27.3.1 Subject to GCC Clause 27.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the System, when

a the Operational Acceptance Tests, as specified in the Technical Requirements, and/or SCC and/or the Agreed Project Plan have been successfully completed; or

b the Operational Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the Procuring Entity within the period from the date of Installation or any other agreed-upon period as specified in GCC Clause 27.2.2 above; or

c the Procuring Entity has put the System into production or use for sixty (60) consecutive days. If the System is put into production or use in this manner, the Supplier shall notify the Procuring Entity and document such use.

27.3.2 At any time after any of the events set out in GCC Clause 27.3.1 have occurred, the Supplier may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.

27.3.3 After consultation with the Procuring Entity, and within fourteen (14) days after receipt of the Supplier's notice, the Project Manager shall:

a Issue an Operational Acceptance Certificate; or

b Notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or

c Issue the Operational Acceptance Certificate, if the situation covered by GCC Clause 27.3.1 (b) arises.

27.3.4 The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Procuring Entity, and the Procuring Entity, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the System or Sub system. Upon the successful conclusion of the Operational Acceptance Tests, the Supplier shall notify the Procuring Entity of its request for Operational Acceptance Certification, in accordance with GCC Clause 27.3.3. The Procuring Entity shall then issue to the Supplier the Operational Acceptance Certification in accordance with GCC Clause 27.3.3 (a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause27.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued.

27.3.5 If the System or Subsystem fails to pass the Operational Acceptance Test(s) in accordance with GCC Clause 27.2, the neither:

a The Procuring Entity may consider terminating the Contract, pursuant to GCC Clause 41.2.2; or

b If the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the Procuring Entity to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract, and GCC Clauses 30.3 and 30.4 shall not apply.

27.3.6 If within fourteen (14) days after receipt of the Supplier's notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the System or Subsystem shall be deemed to have been accepted as of the date of the Supplier's said notice.

27.4 Partial Acceptance

27.4.1 If so specified in the SCC for GCC Clause 27.2.1, Installation and Commissioning shall be carried out individually for each identified major component or Subsystem (s) of the System. In this event, the provisions in the Contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such major component or Subsystem individually, and Operational Acceptance Certificate (s) shall be issued accordingly for each such major component or Subsystem of the System, subject to the limitations contained in GCC Clause 27.4.2.

27.4.2 The issuance of Operational Acceptance Certificates for individual major components or Subsystems pursuant to GCC Clause 27.4.1 shall not relieve the Supplier of its obligation to obtain an Operational Acceptance Certificate for the System as an integrated whole (if so specified in the SCC for GCC Clauses 12.1 and 27.2.1) once all major components and Subsystems have been supplied, installed, tested, and commissioned.

27.4.3 In the case of minor components for the System that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site works, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site works have been completed. The Supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the Procuring Entity or Supplier.

F. Guarantees and Liabilities

28 Operational Acceptance Time Guarantee

28.1 The Supplier guarantees that it shall complete the supply, Installation, Commissioning, and achieve Operational Acceptance of the System (or Subsystems, pursuant to the SCC for GCC Clause 27.2.1) within the time periods specified in the Implementation Schedule and/or the Agreed Project Plan pursuant to GCC Clause 8.2, or within such extended time to which the Supplier shall be entitled under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

28.2 **Unless otherwise specified in the SCC**, if the Supplier fails to supply, install, commission, and achieve Operational Acceptance of the System (or Subsystems pursuant to the SCC for GCC Clause 27.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule or the Agreed Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause 40 (Extension of Time for Achieving Operational Acceptance), the Supplier shall pay to the

Procuring Entity liquidated damages at the rate of one half of one percent per week as a percentage of the Contract Price (exclusive of Recurrent Costs if any), or the relevant part of the Contract Price if a Subsystem has not achieved Operational Acceptance. The aggregate amount of such liquidated damages shall in no event exceed the amount often (10) percent of the Contract Price (exclusive of Recurrent Costs if any). Once the Maximum is reached, the Procuring Entity may consider termination of the Contract, pursuant to GCC Clause 41.2.2.

28.3 **Unless otherwise specified in the SCC,** liquidated damages payable under GCC Clause 28.2 shall apply only to the failure to achieve Operational Acceptance of the System (and Subsystems) as specified in the Implementation Schedule and/or Agreed Project Plan. This Clause 28.3 shall not limit, however, any other rights or remedies the Procuring Entity may have under the Contract for other delays.

28.4 If liquidated damages are claimed by the Procuring Entity for the System (or Subsystem), the Supplier shall have no further liability whatsoever to the Procuring Entity in respect to the Operational Acceptance time guarantee for the System (or Subsystem). However, the payment of liquidated damages shall not in any way relieve the Supplier from any of its obligations to complete the System or from any other of its obligations and liabilities under the Contract.

29 Defect Liability

29.1 The Supplier warrants that the System, including all Information Technologies, Materials, and other Goods supplied and Services provided, shall be free from defects in the design, engineering, Materials, and workmanship that prevent the System and/or any of its components from fulfilling the Technical Requirements or that limit in a material fashion the performance, reliability, or extensibility of the System and/or Subsystems. **Unless otherwise specified in the SCC**, there will be NO exceptions and/or limitations to this warranty with respect to Software (or categories of Software). Commercial warranty provisions of products supplied under the Contract shall apply to the extent that they do not conflict with the provisions of this Contract.

29.2 The Supplier also warrants that the Information Technologies, Materials, and other Goods supplied under the Contract are new, unused, and in corporate all recent improvements in design that materially affect the System's or Subsystem's ability to fulfill the Technical Requirements.

29.3 **Unless otherwise specified in the SCC,** the Supplier warrants that :(i) all Goods components to be incorporated into the System form part of the Supplier's and/or Subcontractor's current product lines, and (ii) they have been previously released to the market.

29.4 **Unless otherwise specified in the SCC**, the Warranty Period shall commence from the date of Operational Acceptance of the System (or of any major component or Subsystem for which separate Operational Acceptance is provided for in the Contract) and shall extend for thirty-six (36) months.

29.5 If during the Warranty Period any defect as described in GCC Clause 29.1 should be found in the design, engineering, Materials, and workmanship of the Information Technologies and other Goods supplied or of the Services provided by the Supplier, the Supplier shall promptly, in consultation and agreement with the Procuring Entity regarding appropriate remedying of the defects, and at its sole cost, repair, replace, or otherwise make good (as the Supplier shall, at its discretion, determine) such defect as well as any damage to the System caused by such defect. Any defective Information Technologies or other Goods that have been replaced by the Supplier shall remain the property of the Supplier.

29.6 The Supplier shall not be responsible for the repair, replacement, or making good of any defect, or of any damage to the System arising out of or resulting from any of the following causes:

a) Improper operation or maintenance of the System by the Procuring Entity;
b) Normal wear and tear;
c) use of the System with items not supplied by the Supplier, unless otherwise identified in the Technical Requirements, or approved by the Supplier; or
d) modifications made to the System by the Procuring Entity, or a third party, not approved by the Supplier.

29.7 The Supplier's obligations under this GCC Clause 29 shall not apply to:

a) any materials that are normally consumed in operation or have a normal life shorter than the Warranty Period; or

b) any designs, specifications, or other data designed, supplied, or specified by or on behalf of the Procuring Entity or any matters for which the Supplier has disclaimed responsibility, in accordance with GCC Clause 21.1.2.

29.8 The Procuring Entity shall give the Supplier a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence. The Procuring Entity shall afford all reasonable opportunity for the Supplier to inspect any such defect. The Procuring Entity shall afford the Supplier all necessary access to the System and the site to enable the Supplier to perform its obligations under this GCC Clause 29.

29.9 The Supplier may, with the consent of the Procuring Entity, remove from the site any Information Technologies and other Goods that are defective, if the nature of the defect, and/or any damage to the System caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the System, the Procuring Entity may give the Supplier notice requiring that tests of the defective part be made by the Supplier immediately upon completion of such remedial work, where upon the Supplier shall carry out such tests.

If such part fails the tests, the Supplier shall carry out further repair, replacement, or making good (as the case maybe) until that part of the System passes such tests. The tests shall be agreed upon by the Procuring Entity and the Supplier.

29.10 **Unless otherwise specified in the SCC**, the response times and repair/replacement times for Warranty Defect Repair are specified in the Technical Requirements. Nevertheless, if the Supplier fails to commence the work necessary to remedy such defect or any damage to the System caused by such defect within two weeks the Procuring Entity may, following notice to the Supplier, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the Procuring Entity in connection with such work shall be paid to the Procuring Entity by the Supplier or may be deducted by the Procuring Entity from any monies due the Supplier or claimed under the Performance Security.

29.11 If the System or Subsystem cannot be used by reason of such defect and/or making good of such defect, the Warranty Period for the System shall be extended by a period equal to the period during which the System or Subsystem could not be used by the Procuring Entity because of such defect and/or making good of such defect.

29.12 Items substituted for defective parts of the System during the Warranty Period shall be covered by the Defect Liability Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater. For reasons of information security, the Procuring Entity may choose to retain physical possession of any replaced defective information storage devices.

29.13 At the request of the Procuring Entity and without prejudice to any other rights and remedies that the Procuring Entity may have against the Supplier under the Contract, the Supplier will offer all possible assistance to the Procuring Entity to seek warranty services or remedial action from any subcontracted third-party producers or licensor of Goods included in the System, including without limitation assignment or transfer in favor of the Procuring Entity of the benefit of any warranties given by such producers or licensors to the Supplier.

30 Functional Guarantees

30.1 The Supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the System represents a complete, integrated solution to the Procuring Entity's requirements set forth in the Technical Requirements and it conforms to all other aspects of the Contract. The Supplier acknowledges that GCC Clause 27 regarding Commissioning and Operational Acceptance govern show technical conformance of the System to the Contract requirements will be determined.

30.2 If, for reasons attributable to the Supplier, the System does not conform to the Technical Requirements or does not conform to all other aspects of the Contract, the Supplier shall at its cost and expense make such changes, modifications, and/or additions to the System as may be necessary to conform to the Technical Requirements and meet all functional and performance standards. The Supplier shall notify the Procuring Entity upon completion of the necessary changes, modifications, and/or additions and shall request the Procuring Entity to repeat the Operational Acceptance Tests until the System achieves Operational Acceptance.

30.3 If the System (or Subsystem[s]) fails to achieve Operational Acceptance, the Procuring Entity may consider termination of the Contract, pursuant to GCC Clause 41.2.2, and forfeiture of the Supplier's Performance Security in accordance with GCC Clause 13.3 in compensation for the extra costs and delays likely to result from this failure.

31 Intellectual Property Rights Warranty

31.1 The Supplier here by represents and warrants that:

a) The System as supplied, installed, tested, and accepted;

b) Use of the System in accordance with the Contract; and

c) Copying of the Software and Materials provided to the Procuring Entity in accordance with the Contract do not and will not infringe any Intellectual Property Rights held by any third party and that it has all necessary rights or at its sole expense shall have secured in writing all transfer so frights and other consents necessary to make the assignments, licenses, and other transfers of Intellectual Property Rights and the warranties set forth in the Contract, and for the Procuring Entity to own or exercise all Intellectual Property Rights as provided in the Contract. Without limitation, the Supplier shall secure all necessary written agreements, consents, and transfers of rights from its employees and other persons or entities whose services are used for development of the System.

32 Intellectual Property Rights Indemnity

32.1 The Supplier shall indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability), that the Procuring Entity or its employees or officers may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights by reason of:

a) Installation of the System by the Supplier or the use of the System, including the Materials, in the country where the site is located;

b) copying of the Software and Materials provided by the Supplier in accordance with the Agreement; and

c) sale of the products produced by the System in any country, except to the extent that such losses, liabilities, and costs a rise as a result of the Procuring Entity's breach of GCC Clause 32.2.

32.2 Such indemnity shall not cover any use of the System, including the Materials, other than for the purpose indicated by or to be reasonably inferred from the Contract, any infringement resulting from the use of the System, or any products of the System produced there by in association or combination with any other goods or services not supplied by the Supplier, where the infringement arises because of such association or combination and not because of use of the System in its own right.

32.3 Such indemnities shall also not apply if any claim of infringement:

a) Is asserted by apparent, subsidiary, or affiliate of the Procuring Entity's organization;

b) Is a direct result of a design mandated by the Procuring Entity's Technical Requirements and the possibility of such infringement was duly noted in the Supplier's Tender; or

c) Results from the alteration of the System, including the Materials, by the Procuring Entity or any persons other than the Supplier or a person authorized by the Supplier.

32.4 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Clause 32.1, the Procuring Entity shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Procuring Entity within the twenty-eight (28) days, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

32.5 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Supplier or its employees, officers, or

Subcontractors may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided to the Supplier in connection with this Contract by the Procuring Entity or any persons (other than the Supplier) contracted by the Procuring Entity, except to the extent that such losses, liabilities, and costs arise as a result of the Supplier's breach of GCC Clause 32.8.

32.6 Such indemnity shall not cover

a) any use of the design, data, drawing, specification, or other documents or materials, other than for the purpose indicated by or to be reasonably inferred from the Contract;

b) any infringement resulting from the use of the design, data, drawing, specification, or other documents or materials, or any products produced thereby, in association or combination with any other Goods or Services not provided by the Procuring Entity or any other person contracted by the Procuring Entity, where the infringement arises because of such association or combination and not because of the use of the design, data, drawing, specification, or other documents or materials in its own right.

32.7 Such indemnities shall also not apply:

a) If any claim of infringement is asserted by apparent, subsidiary, or affiliate of the Supplier's organization;

b) to the extent that any claim of infringement is caused by the alteration, by the Supplier, or any persons contracted by the Supplier, of the design, data, drawing, specification, or other documents or materials provided to the Supplier by the Procuring Entity or any persons contracted by the Procuring Entity.

32.8 If any proceedings are brought or any claim is made against the Supplier arising out of the matters referred to in GCC Clause 32.5, the Supplier shall promptly give the Procuring Entity notice of such proceedings or claims, and the Procuring Entity may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Procuring Entity fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Procuring Entity has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Procuring Entity's request, afford all available assistance to the Procuring Entity in conducting such proceedings or claim and shall be reimbursed by the Procuring Entity for all reasonable expenses incurred in so doing.

33 Limitation of Liability

33.1 Provided the following does not exclude or limit any liabilities of either party in ways not permitted by applicable law:

a) the Supplier shall not be liable to the Procuring Entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity; and

b) the aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to any obligation of the Supplier to indemnify the Procuring Entity with respect to intellectual property rights infringement.

G. Risk Distribution

34 Transfer of Ownership

34.1 With the exception of Software and Materials, the ownership of the Information Technologies and other Goods shall be transferred to the Procuring Entity at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.

34.2 Ownership and the terms of usage of the Software and Materials supplied under the Contract shall be governed by GCC Clause 15 (Copyright) and any elaboration in the Technical Requirements.

34.3 Ownership of the Supplier's Equipment used by the Supplier and its Subcontractors in connection with the Contract shall remain with the Supplier or its Subcontractors.

35 Care of the System

35.1 The Procuring Entity shall be come responsible for the care and custody of the System or Subsystems upon their Delivery. The Procuring Entity shall make good at its own cost any loss or damage that may occur to the System or Subsystems from any cause from the date of Delivery until the date of Operational Acceptance of the System or Subsystems, pursuant to GCC Clause 27 (Commissioning and Operational Acceptance), except such loss or damage arising from acts or omissions of the Supplier, its employees, or subcontractors.

35.2 If any loss or damage occurs to the System or any part of the System by reason of:

a) (in so far as they relate to the country where the Project Site is located) nuclear reaction, nuclear radiation, radioactive contamination, a pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced contractor could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, in so far as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance taken out under GCC Clause 37;

b) Any use not in accordance with the Contract, by the Procuring Entity or any third party;

c) Any use of or reliance upon any design, data, or specification provided or designated by or on behalf of the Procuring Entity, or any such matter for which the Supplier has disclaimed responsibility in accordance with GCC Clause 21.1.2, the Procuring Entity shall pay to the Supplier all sums payable in respect of the System or Subsystems that have achieved Operational Acceptance, notwithstanding that the same be lost, destroyed, or damaged. If the Procuring Entity requests the Supplier in writing to make good any loss or damage to the System thereby occasioned, the Supplier shall make good the same at the cost of the Procuring Entity in accordance with GCC Clause 39. If the Procuring Entity does not request the Supplier in writing to make good any loss or damage to the System there by occasioned, the Procuring Entity shall either request a change in accordance with GCC Clause 39, excluding the performance of that part of the System there by lost, destroyed, or damaged, or, where the loss or damage affects a substantial part of the System, the Procuring Entity shall terminate the Contract pursuant to GCC Clause 41.1.

35.3 The Procuring Entity shall be liable for any loss of or damage to any Supplier's Equipment which the Procuring Entity has authorized to locate within the Procuring Entity's premises for use in fulfillment of Supplier's obligations under the Contract, except where such loss or damage arises from acts or omissions of the Supplier, its employees, or subcontractors.

36 Loss of or Damage to Property; Accident or Injury to Workers; Indemnification

36.1 The Supplier and each and every Subcontractor shall abide by the job safety, insurance, customs, and immigration measures prevalent and laws in force in Kenya.

36.2 Subject to GCC Clause 36.3, the Supplier shall indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all losses, liabilities and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Procuring Entity or its employees or officers may suffer as a result of the death or injury of any person or loss of or damage to any property (other than the System, whether accepted or not) arising in connection with the supply, installation, testing, and Commissioning of the System and by reason of the negligence of the Supplier or its Subcontractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the Procuring Entity, its contractors, employees, officers, or agents.

36.3 If any proceedings are brought or any claim is made against the Procuring Entity that might subject the Supplier to liability under GCC Clause 36.2, the Procuring Entity shall promptly give the Supplier notice of such proceedings or claims, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf. Unless the Supplier has so failed to notify the Procuring Entity within the twenty-eight (28) day period, the Procuring Entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

36.4 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the Supplier or its employees, officers, or Subcontractors may suffer as a result of the death or personal injury of any person or loss of or damage to property of the Procuring Entity, other than the System not yet achieving Operational Acceptance, that is caused by fire, explosion, or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 37 (Insurances), provided that such fire, explosion, or other perils were not caused by any act or failure of the Supplier.

36.5 If any proceedings are brought or any claim is made against the Supplier that might subject the Procuring Entity to liability under GCC Clause 36.4, the Supplier shall promptly give the Procuring Entity notice of such proceedings or claims, and the Procuring Entity may at its own expense and in the Supplier's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the Procuring Entity fails to notify the Supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Supplier shall be free to conduct the same on its own behalf. Unless the Procuring Entity has so failed to notify the Supplier within the twenty-eight (28) days, the Supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The Supplier shall, at the Procuring Entity's request, afford all available assistance to the Procuring Entity in conducting such proceedings or claim and shall be reimbursed by the Procuring Entity for all reasonable expenses incurred in so doing.

36.6 The party entitled to the benefit of an indemnity under this GCC Clause 36 shall take all reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party's liabilities shall be correspondingly reduced.

37 Insurances

37.1 The Supplier shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the Contract, the insurance set forth below. The identity of the insurers and the form of the policies shall be subject to the approval of the Procuring Entity, who should not unreasonably with hold such approval.

a) Cargo Insurance During Transport

as applicable, 110 percent of the price of the Information Technologies and other Goods in a freely convertible currency, covering the Goods from physical loss or damage during shipment through receipt at the Project Site.

b) Installation “All Risks” Insurance

as applicable, 110 percent of the price of the Information Technologies and other Goods covering the Goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under “all risks” insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the System.

c) Third-Party Liability Insurance

On terms as **specified in the SCC,** covering bodily injury or death suffered by third parties (including the Procuring Entity's personnel) and loss of or damage to property (including the Procuring Entity's property and any Subsystems that have been accepted by the Procuring Entity) occurring in connection with the supply and installation of the Information System.

d) Automobile Liability Insurance

In accordance with the statutory requirements prevailing in Kenya, covering use of all vehicles used by the Supplier or its Subcontractors (whether or not owned by them) in connection with the execution of the Contract.

e) Other Insurance (if any), as **specified in the SCC.**

37.2 The Procuring Entity shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1, except for the Third-Party Liability, and the Supplier's Subcontractors shall be named as co-insured under all insurance policies taken out by the Supplier pursuant to GCC Clause 37.1 except for Cargo Insurance During Transport. All insurer's rights of subrogation against such co-insured for losses or claims arising out of the performance of the Contract shall be waived under such policies.

37.3 The Supplier shall deliver to the Procuring Entity certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect.

37.4 The Supplier shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the Contract, unless such Subcontractors are covered by the policies taken out by the Supplier.

37.5 If the Supplier fails to take out and/or maintain in effect the insurance referred to in GCC Clause 37.1, the Procuring Entity may takeout and maintain in effect any such insurance and may from time to time deduct from any amount due to the Supplier under the Contract any premium that the Procuring Entity shall have paid to the insurer or may otherwise recover such amount as a debt due from the Supplier.

37.6 Unless otherwise provided in the Contract, the Supplier shall prepare and conduct all and any claims made under the policies affected by it pursuant to this GCC Clause 37, and all monies payable by any insurers shall be paid to the Supplier. The Procuring Entity shall give to the Supplier all such reasonable assistance as may be required by the Supplier in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the Procuring Entity's interest is involved, the Supplier shall not give any release or make any compromise with the insurer without the prior written consent of the Procuring Entity. With respect to insurance claims in which the Supplier's interest is involved, the Procuring Entity shall not give any release or make any compromise with the insurer without the prior written consent of the Supplier.

38 Force Majeure

38.1 "Force Majeure" shall mean any event beyond the reasonable control of the Procuring Entity or of the Supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following:

a) war, hostilities, or war like operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;

b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;

c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or dejure or defacto authority or ruler, or any other act or failure to act of any local state or national government authority;

d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;

e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;

f) failure, by the Supplier, to obtain the necessary export permit (s) from the governments of the Country(s) of Origin of the Information Technologies or other Goods, or Supplier's Equipment provided that the Supplier has made all reasonable efforts to obtain the required export permit(s), including the exercise of due diligence in determining the eligibility of the System and all of its components for receipt of the necessary export permits.

38.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.

38.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 40 (Extension of Time for Achieving Operational Acceptance).

38.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the Contract and to fulfill its or their obligations under the Contract, but without prejudice to either party's right to terminate the Contract under GCC Clause 38.6.

38.5 No delay or nonperformance by either party to this Contract caused by the occurrence of any event of Force Majeure shall:

a) Constitute a default or breach of the Contract;

b) (subject to GCC Clauses 35.2, 38.3, and 38.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or nonperformance, if, and to the extent that, such delay or non-performance is caused by the occurrence of an event of Force Majeure.

38.6 If the performance of the Contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the Contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the Contract by giving a notice to the other.

38.7 In the event of termination pursuant to GCC Clause 38.6, the rights and obligations of the Procuring Entity and the Supplier shall be as specified in GCC Clauses 41.1.2 and 41.1.3.

38.8 Notwithstanding GCC Clause 38.5, Force Majeure shall not apply to any obligation of the Procuring Entity to make payments to the Supplier under this Contract.

H. Change in Contract Elements

39 Changes to the System

39.1 Introducing a Change

39.1.1 Subject to GCC Clauses 39.2.5 and 39.2.7, the Procuring Entity shall have the right to propose, and subsequently require, the Project Manager to order the Supplier from time to time during the performance of the Contract to make any change, modification, addition, or deletion to, in, or from the System (interchangeably called "Change"), provided that such Change falls within the general scope of the System, does not constitute unrelated work, and is technically practicable, taking into account both the state of advancement of the System and the technical compatibility of the Change envisaged with the nature of the System as originally specified in the Contract.

39.1.2 A Change may involve, but is not restricted to, the substitution of updated Information Technologies and related Services in accordance with GCC Clause 23 (Product Upgrades).

39.1.3 The Supplier may from time to time during its performance of the Contract propose to the Procuring Entity (with a copy to the Project Manager) any Change that the Supplier considers necessary or desirable to improve the quality or efficiency of the System. The Procuring Entity may at its discretion approve or reject any Change proposed by the Supplier.

39.1.4 Notwithstanding GCC Clauses 39.1.1 and 39.1.2, no change made necessary because of any default of the Supplier in the performance of its obligations under the Contract shall be deemed to be a Change, and such change shall not result in any adjustment of the Contract Price or the Time for Achieving Operational Acceptance.

39.1.5 The procedure on how to proceed with and execute Changes is specified in GCC Clauses 39.2 and 39.3, and further details and sample forms are provided in the Sample Contractual Forms Section in the tendering documents.

39.1.6 Moreover, the Procuring Entity and Supplier will agree, during development of the Project Plan, to a date prior to the scheduled date for Operational Acceptance, after which the Technical Requirements for the System shall be "frozen." Any Change initiated after this time will be dealt with after Operational Acceptance.

39.2 Changes Originating from Procuring Entity

39.2.4 If the Procuring Entity proposes a Change pursuant to GCC Clauses 39.1.1, it shall send to the Supplier a "Request for Change Proposal," requiring the Supplier to prepare and furnish to the Project Manager as soon as reasonably practicable a "Change Proposal," which shall include the following:

a Brief description of the Change;

b Impact on the Time for Achieving Operational Acceptance;

c Detailed estimated cost of the Change;

d Effect on Functional Guarantees (if any);

e Effect on any other provisions of the Contract.

39.2.5 Prior to preparing and submitting the "Change Proposal," the Supplier shall submit to the Project Manager a "Change Estimate Proposal," which shall be an estimate of the cost of preparing the Change Proposal, plus a first approximation of the suggested approach and cost for implementing the changes. Upon receipt of the Supplier's Change Estimate Proposal, the Procuring Entity shall do one of the following:

a accept the Supplier's estimate with instructions to the Supplier to proceed with the preparation of the Change Proposal;

b advise the Supplier of any part of its Change Estimate Proposal that is unacceptable and request the Supplier to review its estimate;

c advise the Supplier that the Procuring Entity does not intend to proceed with the Change.

39.2.6 Upon receipt of the Procuring Entity's instruction to proceed under GCC Clause 39.2.2 (a), the Supplier shall, with proper expedition, proceed with the preparation of the Change Proposal, in accordance with GCC Clause 39.2.1. The Supplier, at its discretion, may specify a validity period for the Change Proposal, after which if the Procuring Entity and Supplier has not reached agreement in accordance with GCC Clause 39.2.6, then GCC Clause 39.2.7 shall apply.

39.2.7 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the Contract. If the nature of the Change is such that the Contract rates and prices are in equitable, the parties to the Contract shall agree on other specific rates to be used for valuing the Change.

39.2.8 If before or during the preparation of the Change Proposal it becomes apparent that the aggregate impact of compliance with the Request for Change Proposal and with all other Change Orders that have already become binding upon the Supplier under this GCC Clause 39 would be to increase or decrease the Contract Price as originally set forth in Article 2 (Contract Price) of the Contract Agreement by more than fifteen (15) percent, the Supplier may give a written notice of objection to this Request for Change Proposal prior to furnishing the Change Proposal. If the Procuring Entity accepts the Supplier's objection, the Procuring Entity shall withdraw the proposed Change and shall notify the Supplier in writing of its acceptance.

The Supplier's failure to so object to a Request for Change Proposal shall neither affect its right to object to any subsequent requested Changes or Change Orders, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the Contract Price that any Change not objected to by the Supplier represents.

39.2.9 Upon receipt of the Change Proposal, the Procuring Entity and the Supplier shall mutually agree upon all matters contained in the Change Proposal. Within fourteen (14) days after such agreement, the Procuring Entity shall, if it intends to proceed with the Change, issue the Supplier a Change Order. If the Procuring Entity is unable to reach a decision within fourteen (14) days, it shall notify the Supplier with details of when the Supplier can expect a decision. If the Procuring Entity decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the Supplier accordingly. Under such circumstances, the Supplier shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change Proposal, provided that these do not exceed the amount given by the Supplier in its Change Estimate Proposal submitted in accordance with GCC Clause 39.2.2.

39.2.10 If the Procuring Entity and the Supplier cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Achieving Operational Acceptance, or any other matters identified in the Change Proposal, the Change will not be implemented. However, this provision does not limit the rights of either party under GCC Clause 6 (Settlement of Disputes).

39.3 Changes Originating from Supplier

If the Supplier proposes a Change pursuant to GCC Clause 39.1.2, the Supplier shall submit to the Project Manager a written "Application for Change Proposal," giving reasons for the proposed Change and including the information specified in GCC Clause 39.2.1. Upon receipt of the Application for Change Proposal, the parties shall follow the procedures outlined in GCC Clauses 39.2.6 and 39.2.7. However, should the Procuring Entity choose not to proceed or the Procuring Entity and the Supplier cannot come to agreement on the change during any validity period that the Supplier may specify in its Application for Change Proposal, the Supplier shall not be entitled to recover the costs of preparing the Application for Change Proposal, unless subject to an agreement between the Procuring Entity and the Supplier to the contrary.

39.4 Value engineering. The Supplier may prepare, at its own cost, a value engineering proposal at any time during the performance of the Contract.

39.4.1 The value engineering proposal shall, at a minimum, include the following;

(a) The proposed change (s), and a description of the difference to the existing Contract requirements;

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

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

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

a) accelerates the delivery period; or

b) reduces the Contract Price or the life cycle costs to the Procuring Entity; or

c) improves the quality, efficiency, safety or sustainability of the systems; or

d) yields any other benefits to the Procuring Entity, without compromising the necessary functions of the systems.

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

a) a reduction of the Contract Price; the amount to be paid to the Supplier shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or

b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in
(a) to (d) above, the amount to be paid to the Supplier shall be the full increase in the Contract Price.

40 Extension of Time for Achieving Operational Acceptance

40.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the Supplier is delayed or impeded in the performance of any of its obligations under the Contract by reason of any of the following:
a) Any Change in the System as provided in GCC Clause39 (Change in the Information System);
b) Any occurrence of Force Majeure as provided in GCC Clause 38 (Force Majeure);
c) Default of the Procuring Entity; or
d) Any other matter specifically mentioned in the Contract; by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the Supplier.

40.2 Except where otherwise specifically provided in the Contract, the Supplier shall submit to the Project Manager a notice of a claim for an extension of the time for achieving Operational Acceptance, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the Procuring Entity and the Supplier shall agree upon the period of such extension. In the event that the Supplier does not accept the Procuring Entity's estimate of a fair and reasonable time extension, the Supplier shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 43.

40.3 The Supplier shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the Contract.

41 Termination

41.1 Termination for Procuring Entity's Convenience

41.1.1 The Procuring Entity may at any time terminate the Contract for any reason by giving the Supplier a notice of termination that refers to this GCC Clause 41.1.

41.1.2 Upon receipt of the notice of termination under GCC Clause 41.1.1, the Supplier shall either as soon as reasonably practical or upon the date specified in the notice of termination

a) cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;

b) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to GCC Clause (d) (ii) below;

c) Remove all Supplier's Equipment from the site, repatriate the Supplier's and its Sub contractors' personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;

d) In addition, the Supplier, subject to the payment specified in GCC Clause 41.1.3, shall

i) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;

ii) to the extent legally possible, assign to the Procuring Entity all right, title, and benefit of the Supplier to the System, or Subsystem, as at the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;

iii) deliver to the Procuring Entity all nonproprietary drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.1.3 In the event of termination of the Contract under GCC Clause 41.1.1, the Procuring Entity shall pay to the Supplier the following amounts:

a) The Contract Price, properly attributable to the parts of the System executed by the Supplier as of the date of termination;

b) The costs reasonably incurred by the Supplier in the removal of the Supplier's Equipment from the site and in the repatriation of the Supplier's and its Subcontractors 'personnel;

c) any amount to be paid by the Supplier to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;

d) costs incurred by the Supplier in protecting the System and leaving the site in a clean and safe condition pursuant to GCC Clause 41.1.2(a); and

e) the cost of satisfying all other obligations, commitments, and claims that the Supplier may in good faith have undertaken with third parties in connection with the Contract and that are not covered by GCC Clauses 41.1.3 (a) through (d) above.

41.2 Termination for Supplier's Default

41.2.1 The Procuring Entity, without prejudice to any other rights or remedies it may possess, may terminate the Contract forth within the following circumstances by giving a notice of termination and its reasons there for to the Supplier, referring to this GCC Clause41.2:

a) If the Supplier becomes bankrupt or in solvent, has a receiving order issued against it, compounds with its creditors, or, if the Supplier is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its under taking or assets, or if the Supplier takes or suffers any other analogous action in consequence of debt;

b) If the Supplier assigns or transfers the Contractor any right or interest, there in in violation of the provision of GCC Clause 42 (Assignment); or

c) If the Supplier, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2a. of the Appendix to the GCC, in competing for or in executing the Contract, including but

d)

e) Not limited to willful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer, the hardware, software, or materials provided under this Contract.

f)

41.2.2 If the Supplier:

g) Has abandoned or repudiated the Contract;

h) Has without valid reason failed to commence work on the System promptly;

i) Persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause;

j) Refuses or is unable to provide sufficient Materials, Services, or labor to execute and complete the System in the manner specified in the Agreed Project Plan furnished under GCC Clause 19 at rates of progress that give reasonable assurance to the Procuring Entity that the Supplier can attain Operational Acceptance of the System by the Time for Achieving Operational Acceptance as extended; then the Procuring Entity may, without prejudice to any other rights it may possess under the Contract, give a notice to the Supplier stating the nature of the default and requiring the Supplier to remedy the same. If the Supplier fails to remedy or to take steps to remedy the same with in fourteen (14) days of its receipt of such notice, then the Procuring Entity may terminate the Contract forthwith by giving a notice of termination to the Supplier that refers to this GCC Clause 41.2.

41.2.3 Upon receipt of the notice of termination under GCC Clauses 41.2.1 or 41.2.2, the Supplier shall, either immediately or upon such date as is specified in the notice of termination:

k) cease all further work, except for such work as the Procuring Entity may specify in the notice of termination for the sole purpose of protecting that part of the System already executed or any work required to leave the site in a clean and safe condition;

l) terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to GCC Clause (d) below;

m) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;

n) to the extent legally possible, assign to the Procuring Entity all right, title and benefit of the Supplier to the System or Subsystems as at the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;

o) deliver to the Procuring Entity all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as at the date of termination in connection with the System.

41.2.4 The Procuring Entity may enter upon the site, expel the Supplier, and complete the System itself or by employing any third party. Upon completion of the System or at such earlier date as the Procuring Entity thinks appropriate, the Procuring Entity shall give notice to the Supplier that such Supplier's Equipment will be returned to the Supplier at or near the site and shall return such Supplier's Equipment to the Supplier in accordance with such notice. The Supplier shall thereafter without delay and at its cost remove or arrange removal of the same from the site.

41.2.5 Subject to GCC Clause 41.2.6, the Supplier shall be entitled to be paid the Contract Price attributable to the portion of the System executed as at the date of termination and the costs, if any, incurred in protecting the System and in leaving the site in a clean and safe condition pursuant to GCC Clause 41.2.3 (a). Any sums due the Procuring Entity from the Supplier accruing prior to the date of termination shall be deducted from the amount to be paid to the Supplier under this Contract.

41.2.6 If the Procuring Entity completes the System, the cost of completing the System by the Procuring Entity shall be determined. If the sum that the Supplier is entitled to be paid, pursuant to GCC Clause 41.2.5, plus the reasonable costs incurred by the Procuring Entity in completing the System, exceeds the Contract Price, the Supplier shall be liable for such excess. If such excess is greater than the sums due the Supplier under GCC Clause41.2.5, the Supplier shall pay the balance to the Procuring Entity, and if such excess is less than the sums due the Supplier under GCC Clause 41.2.5, the Procuring Entity shall pay the balance to the Supplier. The Procuring Entity and the Supplier shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

41.3 Termination by Supplier

41.3.1 If:

a) the Procuring Entity has failed to pay the Supplier any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause **pursuant to the SCC,** or commits a substantial breach of the Contract, the Supplier may give a notice to the Procuring Entity that requires payment of such sum, with interest on this sum as stipulated in GCC Clause 12.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the Procuring Entity to remedy the same, as the case may be. If the Procuring Entity fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen
(14) days after receipt of the Supplier's notice; or

b) the Supplier is unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity, including but not limited to the Procuring Entity's failure to provide possession of or access to the site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the System; then the Supplier may give a notice to the Procuring Entity of such events, and if the Procuring Entity has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Supplier is still unable to carry out any of its obligations under the Contract for any reason attributable to the Procuring Entity within twenty-eight (28) days of the said notice, the Supplier may by a further notice to the Procuring Entity referring to this GCC Clause 41.3.1, forth with terminate the Contract.

41.3.2 The Supplier may terminate the Contract immediately by giving a notice to the Procuring Entity to that effect, referring to this GCC Clause 41.3.2, if the Procuring Entity becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Procuring Entity takes or suffers any other analogous action in consequence of debt.

41.3.3 If the Contract is terminated under GCC Clauses 41.3.1 or 41.3.2, then the Supplier shall immediately:

c) Cease all further work, except for such work as may be necessary for the purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;

d) Terminate all subcontracts, except those to be assigned to the Procuring Entity pursuant to Clause 41.3.3 (d) (ii);

e) remove all Supplier's Equipment from the site and repatriate the Supplier's and its Subcontractor's personnel from the site.

f) In addition, the Supplier, subject to the payment specified in GCC Clause 41.3.4, shall:

i) deliver to the Procuring Entity the parts of the System executed by the Supplier up to the date of termination;

ii) to the extent legally possible, assign to the Procuring Entity all right, title, and benefit of the Supplier to the System, or Subsystems, as of the date of termination, and, as may be required by the Procuring Entity, in any subcontracts concluded between the Supplier and its Subcontractors;

iii) to the extent legally possible, deliver to the Procuring Entity all drawings, specifications, and other documents prepared by the Supplier or its Subcontractors as of the date of termination in connection with the System.

41.3.4 If the Contract is terminated under GCC Clauses 41.3.1or 41.3.2, the Procuring Entity shall pay to the Supplier all payments specified in GCC Clause 41.1.3 and reasonable compensation for all loss, except for loss of profit, or damage sustained by the Supplier arising out of, in connection with, or in consequence of such termination.

41.3.5 Termination by the Supplier pursuant to this GCC Clause 41.3 is without prejudice to any other rights or remedies of the Supplier that may be exercised in lieu of or in addition to rights conferred by GCC Clause 41.3.

41.4 In this GCC Clause 41, the expression “portion of the System executed” shall include all work executed,

Services provided, and all Information Technologies, or other Goods acquired (or subject to a legally binding

41.5 Obligation to purchase) by the Supplier and used or intended to be used for the purpose of the System, up to and including the date of termination

.

41.6 In this GCC Clause 41, in calculating any monies due from the Procuring Entity to the Supplier, account shall be taken of any sum previously paid by the Procuring Entity to the Supplier under the Contract, including any advance payment paid **pursuant to the SCC.**

42 Assignment

42.l Neither the Procuring Entity nor the Supplier shall, without the express prior written consent of the other, assign to any third party the Contractor any part thereof, or any right, benefit, obligation, or interest there in or there under, except that the Supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the Contract.

I. Settlement of Disputes

43 Settlement of Disputes

43.1 **Adjudication**

43.1.1 If any dispute of any kind what so ever shall arise between the Procuring Entity and the Supplier in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the System (whether during the progress of implementation or after its achieving Operational Acceptance and whether before or after the termination, abandonment, or breach of the Contract), the parties shall seek to resolve any such dispute **by mutual consultation**. If the parties fail to resolve such a dispute by mutual consultation within fourteen (14) days after one party has notified the other in writing of the dispute, then, if the Contract Agreement in Appendix2 includes and names an Adjudicator, the dispute shall, within another fourteen (14) days, be referred in writing by either party to the Adjudicator, with a copy to the other party. If there is no Adjudicator specified in the Contract Agreement, the mutual consultation period stated above shall last twenty-eight (28) days (instead of fourteen), upon expiry of which either party may move to the notification of arbitration pursuant to GCC Clause43.2.1.

43.1.2 The Adjudicator shall give his or her decision in writing to both parties within twenty-eight (28) days of the dispute being referred to the Adjudicator. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the Procuring Entity or the Supplier within fifty-six (56) days of such reference, the decision shall become final and binding upon the Procuring Entity and the Supplier. Any decision that has become final and binding shall be implemented by the parties forth with.

43.1.3 The Adjudicator shall be paid an hourly fee at the rate specified in the Contract Agreement plus reasonable expenditures incurred in the execution of duties as Adjudicator, and these costs shall be divided equally between the Procuring Entity and the Supplier.

43.1.4 Should the Adjudicator resign or die, or should the Procuring Entity and the Supplier agree that the Adjudicator is not fulfilling his or her functions in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the Procuring Entity and the Supplier. Failing agreement between the two within twenty-eight (28) days, the new Adjudicator shall be appointed at the request of either party by the Appointing Authority **specified in the SCC,** or, if no Appointing Authority is **specified in SCC,** the Contract shall, from this point onward and until the parties may otherwise agree on an Adjudicator or an Appointing Authority, be implemented as if there is no Adjudicator.

43.2 Arbitration

43.2.1 If

a) the Procuring Entity or the Supplier is dissatisfied with the Adjudicator's decision and acts before this decision has become final and binding pursuant to GCC Clause 43.1.2, or
b) the Adjudicator fails to give a decision within the allotted time from referral of the dispute pursuant to GCC Clause 43.1.2, and the Procuring Entity or the Supplier acts within the following fourteen (14) days, or

c) in the absence of an Adjudicator from the Contract Agreement, the mutual consultation pursuant to GCC Clause 43.1.1 expires without resolution of the dispute and the Procuring Entity or the Supplier acts within the following fourteen (14) days, then either the Procuring Entity or the Supplier may act to give notice to the other party, with a copy for information to the Adjudicator incase an Adjudicator had been involved, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

43.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 43.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the Information System.

43.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC.**

43.3 Notwithstanding any reference to the Adjudicator or arbitration in this clause,

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

b) The Procuring Entity shall pay the Supplier any monies due the Supplier.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the General Conditions of Contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

A. Contract and Interpretation

1. Definitions (GCC Clause1)

GCC 1.1 (b) (i)	The Procuring Entity is: **The Independent Electoral and Boundaries Commission (IEBC)**
GCC 1.1 (b) (ii)	The Project Manager is: ***ICT Manager***
GCC 1.1 (e) (ix)	***There are no Special Conditions associated with GCC 1.1 (e) (x).***
GCC 1.1 (e) (xii)	The Post-Warranty Services Period is ***24 Months*** starting with the completion of the Warranty Period.

2. Notices (GCC Clause 4)

GCC 4.3	Address of the Project Manager: ***ICT Manager***, **P O Box 45371-00100, Nairobi.** **Website: www.iebc.or.ke** Fallback address of the Procuring Entity: **Independent Electoral and Boundaries Commission (IEBC) Anniversary Towers, UniversityWay, Fifth Floor,** **P O Box 45371-00100,** **Nairobi.** **Website: www.iebc.or.ke** For Electronic Data Interchange (EDI) the Procuring Entity and Supplier will use the following standards, protocols, addresses, and procedures: **P O Box 45371-00100,** **Nairobi.** **Website: www.iebc.or.ke** Email: **procurement@iebc.or.ke**

B. Subject Matter of Contract

3. Scope of the System (GCC Clause 7)

GCC 7.3	The Supplier's obligations under the Contract will include the following recurrent cost items, as identified in the Recurrent Cost tables in the Supplier's Tender: The Supplier agrees to supply spare parts required for the operation and maintenance of the System, as stated below, for ***3*** years beginning with Operational Acceptance. Moreover, the price of such spare parts shall be those specified in the spare parts price schedule submitted by the Suppler as part of its Tender. These prices shall include the purchase price for such spare parts and other costs and expenses (including the Supplier's fees) relating to the supply of spare parts.

4. Time for Commencement and Operational Acceptance (GCC Clause 8)

GCC 8.1	The Supplier shall commence work on the System within: 30 days from the Effective Date of the Contract.

5. Supplier's Responsibilities (GCC Clause 9)

C. PAYMENT

6. Contract Price (GCC Clause 11)

GCC 11.2	Adjustments to the Contract Price shall be as follows***:*** **NOT APPLICABLE**

7. Terms of Payment (GCC Clause 12)

GCC 12.1	Subject to the provisions of GCC Clause 12 (Terms of Payment), the Procuring Entity shall pay the Contract Price to the Supplier according to the categories and in the manner specified below. Only the categories Advance Payment and Complete System Integration relate to the entire Contract Price. In other payment categories, the term "total Contract Price" means the total cost of goods or services under the specific payment category. Within each such category, the Contract Implementation Schedule may trigger pro-rata payments for the portion of the total Contract Price for the category corresponding to the goods or services actually Delivered, Installed, or Operationally Accepted, at unit prices and in the currencies specified in the Price Schedules of the Contract Agreement. (a) Advance Payment Twenty percent (20%) of the entire Contract Price, exclusive of all Recurrent Costs, shall be paid against receipt of a claim accompanied by the Advance Payment Security specified in GCC Clause 13.2. (b) Information Technologies, Materials, and other Goods, with the exception of Custom Software and Custom Materials: sixty percent (60%) of the total or pro-rata Contract Price for this category against Delivery ten percent (10%) of the same price against Installation ten percent (10%) of the same price against Operational Acceptance. (c) Custom Software and Custom Materials: sixty percent (60%) of the total or pro-rata Contract Price for this category against Installation twenty percent (20%) of the same price against Operational Acceptance. (d) Services other than Training: eighty percent (80%) of the pro-rata Contract Price for services performed will be paid monthly in arrears, on submission and Procuring Entity's approval of invoices:

	(e) Training thirty percent (30%) of the total Contract Price for training services at the start of the full training program fifty percent (50%) of the pro-rata Contract Price for training services performed will be paid monthly in arrears, on submission and approval of appropriate invoices. (f) Complete System Integration ten percent (10%) of the entire Contract Price, exclusive of all Recurrent Costs, as final payment against Operational Acceptance of the System as an integrated whole. (g) Recurrent Costs one hundred percent (100%) of the price of the services actually delivered will be paid quarterly in arrears, on submission and Procuring Entity's approval of invoices.
GCC 12.3	The Procuring Entity shall pay to the Supplier interest on the delayed payments at a rate of: **NOT APPLICABE**
GCC 12.4	The Supplier will invoice the Procuring Entity in the currency used in the Contract Agreement and the Price Schedules it refers to, for Goods and Services supplied locally, and the conversion between this currency and Kenya shillings for payment purposes - in case the two currencies are different - will be made as of the actual payment date using the exchange rate found in **Central Bank.**

8. Securities (GCC Clause 13)

GCC 13.3.1	The Performance Security shall be denominated in ***[Ksh]*** for an amount equal to **10% (ten percent)** of the Contract Price, excluding any Recurrent Costs.
GCC 13.3.4	During the Warranty Period (i.e., after Operational Acceptance of the System), the Performance Security shall be reduced to **2% (two percent)** of the Contract Price, excluding any Recurrent Costs.

D. Intellectual Property

9. Copyright (GCC Clause 15)

GCC 15.3	***There are no Special Conditions of Contract applicable to GCC Clause 15.3***
GCC 15.4	***There are no Special Conditions of Contract applicable to GCC Clause 15.4***
GCC 15.5	***There are no Special Conditions of Contract applicable to GCC Clause 15.5***

10. Software License Agreements (GCC Clause 16)

GCC 16.1 (a) (iv)	***There are no Special Conditions of Contract applicable to GCC Clause 16.1 (a) (iv)***
GCC 16.1 (b) (vi)	***There are no Special Conditions of Contract applicable to GCC Clause 16.1 (b) (vi)***
GCC 16.1 (b) (vii)	***There are no Special Conditions of Contract applicable to GCC Clause 16.1 (b) (vii)***
GCC 16.2	***There are no Special Conditions of Contract applicable to GCC Clause 16.2***

11. Confidential Information (GCC Clause 17)

GCC 17.1	***There are no Special Conditions of Contract applicable to GCC Clause 17.1***

E. Supply, Installation, Testing, Commissioning, and Acceptance of the System

12. Representatives (GCC Clause 18)

GCC 18.1	***There are no Special Conditions of Contract applicable to GCC Clause 18.1***
GCC 18.2.2	***There are no Special Conditions of Contract applicable to GCC Clause 18.2.2***

13. Project Plan (GCC Clause 19)

GCC 19.1	Chapters in the Project Plan shall address the following subject**:** ***(a) Project Organization and Management Sub-Plan, including management authorities, responsibilities, and contacts, as well as task, time and resource-bound schedules (in GANTT format);*** ***(b) Implementation Sub-Plan;*** ***(c) Training Sub-Plan;*** ***(d) Testing and Quality Assurance Sub-Plan;*** ***(e) Warranty Defect Repair and Technical Support Service Sub-Plan*** ***Further details regarding the required contents of each of the above chapters are contained in the Technical Requirements, (insert: reference)].***
GCC 19.6	***The Supplier shall submit to the Procuring Entity:*** ***(i) monthly inspection and quality assurance reports*** ***(ii) monthly training participants test results*** ***(iii) monthly log of service calls and problem resolutions***

14. Design and Engineering (GCC Clause 21)

GCC 21.3.1	***There are no Special Conditions of Contract applicable to GCC Clause 21.3.1.***

15. Product Upgrades (GCC Clause 23)

GCC 23.4	***There are no Special Conditions of Contract applicable to GCC Clause 23.4.***

16. Inspections and Tests (GCC Clause 25)

GCC 25	***There are no Special Conditions of Contract applicable to GCC Clause 25.***

17. Commissioning and Operational Acceptance (GCC Clause 27)

GCC 27.2.1	***There are no Special Conditions of Contract applicable to GCC Clause 27.2.1.***

F. Guarantees and Liabilities

18. Operational Acceptance Time Guarantee (GCC Clause 28)

GCC 28.2	***There are no Special Conditions of Contract applicable to GCC Clause 28.2.***
GCC 28.3	***There are no Special Conditions of Contract applicable to GCC Clause 28.3.***

19. Defect Liability (GCC Clause 29)

GCC 29.1	***There are no Special Conditions of Contract applicable to GCC Clause 29.1.***
GCC 29.4	***There are no Special Conditions of Contract applicable to GCC Clause 29.4.***
GCC 29.10	***There are no Special Conditions of Contract applicable to GCC Clause 29.10***

20. Functional Guarantees (GCC Clause 30)

GCC 30	***There are no Special Conditions of Contract applicable to GCC Clause 30.***

G. Risk Distribution

21. Insurances (GCC Clause 37)

GCC 37.1 (c)	The Supplier shall obtain Third-Party Liability Insurance in the amount of ***[insert: monetary value]*** with deductible limits of no more than ***[insert: monetary value].*** The insured Parties shall be ***[list insured parties].*** The Insurance shall cover the period from ***[insert: beginning date, relative to the Effective Date of the Contract]*** until ***[insert: expiration date, relative to the Effective Date of the Contract or its completion].***
GCC 37.1 (e)	***There are no Special Conditions of Contract applicable to GCC Clause 37.1 (e).***

H. CHANGE IN CONTRACT ELEMENTS

22. Changes to the System (GCC Clause 39)

GCC 39.4.3	**Value Engineering** If the value engineering proposal is approved by the Procuring Entity the amount to be paid to the Supplier shall be ___% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price.

I. Settlement of Disputes

23. Settlement of Disputes (GCC Clause 43)

GCC 43.1.4	The Appointing Authority for the Adjudicator is: ***[insert: the name of an impartial international technical organization in the information technology sector, or, if no Adjudicator is used in this Contract Agreement or no organization has been identified and agreed to serve as Appointing Authority for the Adjudicator, state "not applicable."].***
GCC 43.2.3	If the Supplier is from outside Kenya arbitration proceedings shall be conducted in accordance with the rules of arbitration of *[select one of the following:* ***UNCITRAL / the International Chamber of Commerce (ICC) / the Arbitration Institute of the Stockholm Chamber of Commerce / the London Court of International Arbitration****]*. These rules, in the version in force at the time of the request for arbitration, will be deemed to form part of this Contract. If the Supplier is a national of Kenya, any dispute between the Procuring Entity and a Supplier arising in connection with the present Contract shall be referred to arbitration in accordance with the laws of Kenya.

SECTION VIII - CONTRACT FORMS

Notes to the Procuring Entity on preparing the Contract Forms.

Performance Security: Pursuant to GCC Clause 13.3, the successful Tenderer is required to provide the Performance Security within twenty-eight (28) days of notification of Contract award.

Advance Payment Security: Pursuant to Clause13.2, the successful Tenderer is required to provide a bank guarantee securing the Advance Payment, if the SCC related to GCC Clause 12.1 provides for an Advance Payment.

Installation and Operational Acceptance Certificates: Recommended formats for these certificates are included in this SPD. Unless the Procuring Entity has good reason to require procedures that differ from those recommended, or to require different wording in the certificates, the procedures and forms shall be included unchanged. If the Procuring Entity wishes to amend the recommended procedures and/ or certificates, it may do so before release of the tendering document to potential Tenderers.

Change Order Procedures and Forms: Similar to the Installation and Operational Acceptance Certificates, the Change Estimate Proposal, Estimate Acceptance, Change Proposal, Change Order, and related Forms should be included in the tendering document unaltered. If the Procuring Entity wishes to amend the recommended procedures and/ or certificates, it may do so before release of the tendering document.

Notes to Tenderers on working with the Sample Contractual Forms

The following forms are to be completed and submitted by the successful Tenderer following notification of award: (i) Contract Agreement, with all Appendices; (ii) Performance Security; and (iii) Advance Payment Security.

Contract Agreement: In addition to specifying the parties and the Contract Price, the Contract Agreement is where the:
(i) Supplier Representative; (ii) if applicable, agreed Adjudicator and his/her compensation; and (iii) the List of Approved Subcontractors are specified. In addition, modifications to the successful Tenderer's Tender Price Schedules are attached to the Agreement. These contain corrections and adjustments to the Supplier's tender prices to correct errors, adjust the Contract Price to reflect - if applicable - any extensions to tender validity beyond the last day of original tender validity plus 56 days, etc.

Performance Security: Pursuant to GCC Clause 13.3, the successful Tenderer is required to provide the Performance Security in the form contained in this section of these tendering documents and in the amount specified in accordance with the SCC.

Advance Payment Security: Pursuant to GCC Clause 13.2, the successful Tenderer is required to provide a bank guaranteeforthefullamountoftheAdvancePayment-ifanAdvancePaymentisspecifiedintheSCCforGCCClause 12.1- in the form contained in this section of these tendering documents or another form acceptable to the Procuring Entity. If a Tenderer wishes to propose a different Advance Payment Security form, it should submit a copy to the Procuring Entity promptly for review and confirmation of acceptability before the tender submission deadline.

The Procuring Entity and Supplier will use the following additional forms during Contract implementation to formalize or certify important Contract events: (i) the Installation and Operational Acceptance Certificates; and (ii) the various Change Order forms. These and the procedures for their use during performance of the Contract are included in the tendering documents for the information of Tenderers.

1. Notification of Intention to Award

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

1) For the attention of Tenderer's Authorized Representative Name: ..... [insert Authorized Representative's name]
Address: ..... *[insert Authorized Representative's Address]*
Telephone/Fax numbers: ..... *[insert Authorized Representative's telephone/fax numbers]*
Email Address: ..... *[insert Authorized Representative's email address]*

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

DATE OF TRANSMISSION: .....This Notification is sent by: [*email/fax*] on[*date*](local time)
Notification of Intention to Award
[Procuring Entity]: ..... *[insert the name of the Procuring Entity]*
Project: .....*[insert name of project]*
Contract title: ..... *[insert the name of the contract]*
Country: .....*[insert country where ITT is issued]*
ITT No: ..... *[insert ITT reference number from Procurement Plan]*

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

a) Request a debriefing inrelation to the evaluation of your Tender, and/ or

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

i) The successful Tenderer

Name:	[*insert name of successful Tenderer*]
Address:	[*insert address of the successful Tenderer*]
Contract price:	[*insert contract price of the successful Tenderer*]
Total combined score:	[*insert the total combined score of the successful Tenderer*]

2) Other Tenderers ***[INSTRUCTIONS: insert names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.]***

Name of Tenderer	Technical Score (If applicable)	Tender price	Evaluated Tender Cost	Combined Score (if applicable)
[*insert name*]	[*insert Technical score*]	[*insert Tender price*]	[*insert evaluated cost*]	[*insert combined score*]
[*insert name*]	[*insert Technical score*]	[*insert Tender price*]	[*insert evaluated cost*]	[*insert combined score*]
[*insert name*]	[*insert Technical score*]	[*insert Tender price*]	[*insert evaluated cost*]	[*insert combined score*]
[*insert name*]	[*insert Technical score*]	[*insert Tender price*]	[*insert evaluated cost*]	[*insert combined score*]
[*insert name*]	[*insert Technical score*]	[*insert Tender price*]	[*insert evaluated cost*]	[*insert combined score*]

3) ***Reason/s why your Tender was unsuccessful [Delete if the combined score already reveals the reason]***

[INSTRUCTIONS; State the reason/s why this Tenderer's Tender was unsuccessful. Do NOT include: (a) a point by point comparison with another Tenderer's Tender or (b) information that is marked confidential by the Tenderer in its Tender.]

4) ***How to request a debriefing***

DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (local time).

You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

Attention: [*insert full name of person, if applicable*] **Title/position**:____[*insert title/position*]

Agency: [*insert name of Procuring Entity*] **Email address**:_____[*insert email address*] **Fax number**:

_____[*insert fax number*] ***delete if not used***

If your request for a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

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

5) How to make a complaint

DEADLINE: The deadline for submitting a Procurement-related Complaint challenging the decision to award the contract expires on midnight, [*insert date*] (local time).

Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

Attention: [*insert full name of person, if applicable*] **Title/position**:____[*insert title/position*]

Agency: [*insert name of Procuring Entity*] **Email address**:_____[*insert email address*]

At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends. Further information:

For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website info@ppra.go.ke or complaints@ppra.go.ke.

In summary, there are four essential requirements:

1. You must be an' interested party'. In this case, that means a Tenderer who submitted a Tender in this procurement, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract.
3. You must submit the complaint within the deadline stated above.
4. You must include, in your complaint, all of the information required by the Procurement Regulations (as described in Annex III).

6) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).

The Standstill Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended. This may happen where we are unable to provide a debriefing within the five (5) Business Day deadline. If this happens we will notify you of the extension.

If you have any questions regarding this Notification please do not hesitate to contact us. On behalf of the Procuring Entity:

Signature: _____

Name: _____

Title/position:

_____

Telephone: _____

Email: _____

2 REQUEST FOR REVIEW

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO…….OF…….20……...

BETWEEN

……...…….APPLICANT

AND

……RESPONDENT (Procuring Entity)

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

REQUEST FOR REVIEW

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

1.

2.

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

1.

2.

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

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on……day of ……...20….……

SIGNED

Board Secretary

3. Letter of Award

_____)_____

To: _____

This is to notify you that your Tender dated_____for execution of the_____ for the Contract Price in the aggregate of_____, as corrected and modified in accordance with the Instructions to Tenderers is here by accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section X, - Contract Forms, of the Tendering Document.

Authorized Signature:_____

Name and Title of Signatory:_____

Name of Agency:_____

Attachment: Contract Agreement

4 Contract Agreement

THIS CONTRACT AGREEMENT is made on the ***.....[insert: ordinal]*** day of ..... *[**insert: month], [insert: year].* BETWEEN (1) ***..... [insert: Name of Procuring Entity],*** a ***[insert: description of type of legal entity, for example, an agency of the Department of……..]*** of the Government of Kenya***,*** or corporation incorporated under the laws of Kenya and having its principal place of business at ***[insert: address of Procuring Entity]*** (here in after called "the Procuring Entity"), and (2).....***[insert: name of Supplier],*** a corporation incorporated under the laws of ***[insert: country of Supplier]*** and having its principal place of business at ***[insert: address of Supplier]*** (here in after called "the Supplier").

WHEREAS the Procuring Entity desires to engage the Supplier to supply, install, achieve Operational Acceptance of, and support the following Information System ***[insert: brief description of the Information System]*** ("the System"), and the Supplier has agreed to such engagement upon and subject to the terms and conditions appearing below in this Contract Agreement.

NOW IT IS HERE BY AGREED as follows:

Article 1. Contract Documents

3. Contract Documents (Reference GCC Clause1.1(a) (ii))
The following documents shall constitute the Contract between the Procuring Entity and the Supplier, and each shall be read and construed as an integral part of the Contract:

a) This Contract Agreement and the Appendices attached to the Contract Agreement
b) Special Conditions of Contract
c) General Conditions of Contract
d) Technical Requirements (including Implementation Schedule)
e) The Supplier's tender and original Price Schedules
f) [Add here: any other documents]

1.2 Order of Precedence (Reference GCC Clause 2)
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 Article 1.1 (Contract Documents) above, provided that Appendix 7 shall prevail over all provisions of the Contract Agreement and the other Appendices attached to the Contract Agreement and all the other Contract Documents listed in Article 1.1above.

1.3 Definitions (Reference GCC Clause1)
Capitalized words and phrases used in this Contract Agreement shall have the same meanings as prescribed to them in the General Conditions of Contract.

Article 2.
Contract Price and Terms of Payment

2.1 Contract Price (Reference GCC Clause 1.1(a)(viii) and GCC Clause 11) The Procuring Entity here by agrees to pay to the Supplier the Contract Price in consideration of the performance by the Supplier of its obligations under the Contract. The Contract Price shall be the aggregate of: [***insert: amount of foreign currency A in words], [insert: amount in figures],*** plus ***[insert: amount of foreign currency B in words], [insert: amount in figures],*** plus ***[insert: amount of foreign currency C in words], [insert: amount in figures], [insert: amount of local currency in words], [insert: amount in figures],*** as specified in the Grand Summary Price Schedule.

The Contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the terms and conditions of the associated incoterms, and the taxes, duties and related levies if and as identified.

Article 3.
Effective Date for Determining Time for Operational Acceptance

3.1 Effective Date (Reference GCC Clause 1.1(e) (ix))
The time allowed for supply, installation, and achieving Operational Acceptance of the System shall be determined from the date when all of the following conditions have been fulfilled:

a) This Contract Agreement has been duly executed for and on behalf of the Procuring Entity and the Supplier;
b) The Supplier has submitted to the Procuring Entity the performance security and the advance payment security, in accordance with GCC Clause 13.2 and GCC Clause13.3;

c) The Procuring Entity has paid the Supplier the advance payment, in accordance with GCC Clause 12; Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract Agreement because of reasons not attributable to the Supplier, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Achieving Operational Acceptance and/or other relevant conditions of the Contract.

Article 4.
Appendixes

4.1 The Appendixes listed below shall be deemed to form an integral part of this Contract Agreement.

4.2 Reference in the Contract to any Appendix shall mean the Appendixes listed below and attached to this Contract Agreement, and the Contract shall be read and construed accordingly.

APPENDIXES
Appendix 1. Supplier's Representative
Appendix 2. Adjudicator *[If there is no Adjudicator, state **"not applicable"**]*
Appendix 3. List of Approved Subcontractors
Appendix 4. Categories of Software
Appendix 5. Custom Materials
Appendix 6. Revised Price Schedules (if any)
Appendix 7. Minutes of Contract Finalization Discussions and Agreed-to Contract Amendments

IN WITNESS WHEREOF the Procuring Entity and the Supplier have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

i) For and on behalf of the Procuring Entity
Signed:

in the capacity of ***[insert: title or other appropriate designation]***
in the presence of_____

ii) For and on behalf of the Supplier
Signed:

in the capacity of ***[insert: title or other appropriate designation]***
in the presence of_____

5. Appendices

a) Appendix 1. Supplier's Representative

In accordance with GCC Clause 1.1 (b) (iv), the Supplier's Representative is:

Name: .....*[insert: name and provide title and address further below, or state "to be nominated within fourteen (14) days of the Effective Date"]*

Title: .....*[if appropriate, insert: title]*

In accordance with GCC Clause 4.3, the Supplier's addresses for notices under the Contract are:

Address of the Supplier's Representative: .....[***as appropriate, insert: personal delivery, postal, cable, facsimile, electronic mail, and/or EDI addresses.]***

Fallback address of the Supplier: .....[***as appropriate, insert: personal delivery, postal, cable, facsimile, electronic mail, and/or EDI addresses.]***

b) **Appendix**

2. Adjudicator in accordance with GCC Clause1.1 (b) (vi), the agreed-upon Adjudicator is: Name:

..... ***[insert: name]*** Title: .....

[insert: title] Address: .....***[insert: postal address]*** Telephone:

..... ***[insert: telephone]*** in accordance with GCC Clause 43.1.3, the

agreed-upon fees and reimbursable expenses are: Hourly Fees: .....

[insert: hourly fees] Reimbursable Expenses: .....***[list: reimbursables]***

Pursuant to GCC Clause 43.1.4, if at the time of Contract signing, agreement has not been reached between the Procuring Entity and the Supplier, an Adjudicator will be appointed by the Appointing Authority named in the SCC.

c) Appendix 3. List of Approved Subcontractors

The Procuring Entity has approved use of the following Subcontractors nominated by the Supplier for carrying out the item or component of the System indicated. Where more than one Subcontractor is listed, the Supplier is free to choose between them, but it must notify the Procuring Entity of its choice sufficiently in advance of the time when the subcontracted work needs to commence to give the Procuring Entity reasonable time for review. In accordance with GCC Clause 20.1, the Supplier is free to submit proposals for Subcontractors for additional items from time to time. No subcontracts shall be placed with any such Subcontractors for additional items until the Subcontractors have been approved in writing by the Procuring Entity and their names have been added to this list of Approved Subcontractors, subject to GCC Clause20.3.

[specify: item, approved Subcontractors, and their place of registration that the Supplier proposed in the corresponding attachment to its tender and that the Procuring Entity approves that the Supplier engage during the performance of the Contract. Add additional pages as necessary.]

Item	Approved Subcontractors	Place of Registration

d) Appendix 4. Categories of Software

The following table assigns each item of Software supplied and installed under the Contract to one of the three categories: (i) System Software, (ii) General-Purpose Software, or (iii) Application Software; and to one of the two categories: (i) Standard Software or (ii) Custom Software.

	(select one per item)			(select one per item)	
Software Item	System Software	General-Purpose Software	Application Software	Standard Software	Custom Software

e) Appendix 5. Custom Materials

The follow table specifies the Custom Materials the Supplier will provide under the Contract.

Custom Materials

f) Appendix 6. Revised Price Schedules

The attached Revised Price Schedules (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the Price Schedules contained in the Supplier's Tender. These Revised Price Schedules reflect any corrections or adjustments to the Supplier's tender price, pursuant to the ITT Clauses 30.3 and 38.2.

g) Appendix 7. Minutes of Contract Finalization Discussions and Agreed-to Contract Amendments

The attached Contract amendments (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the relevant clauses in the GCC, SCC, Technical Requirements, or other parts of this Contract as defined in GCC Clause 1.1 (a) (ii).

6. Performance and Advance Payment Security Forms

5.1 Performance Security Form (Demand Bank Guarantee)

[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated]

[Guarantor Form head or SWIFT identifier code] .....
*[insert: **Bank's Name, and Address of Issuing Branch or Office**]*
Beneficiary: ..... *[insert: **Name and Address of Procuring Entity**]*
Date: ..... *[insert: **date**]*
PERFORMANCE GUARANTEE No.: ..... *[insert: **Performance Guarantee Number**]* **Guarantor:** ..... *[Insert name and address of place of issue, unless indicated in the Form head.]*

We have been informed that on *[insert: **date of award**]* you awarded Contract No. *[insert: **Contract number**]* for *[insert: **title and/or brief description of the Contract**]* (hereinafter called "the Contract") to *[insert: **complete name of Supplier which in the case of a joint venture shall be in the name of the joint venture**]* (hereinafter called "the Applicant"). Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor here by irrevocably undertake to pay you any sum(s) not exceeding *[insert: **amount(s)[1] in figures and words**]* such sum being payable in the types and proportions of currencies which the Contract Price is payable upon receipt by us of the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the contract without the Beneficiary needing to prove or to showgrounds or reasons for their demand or the sum specified there in.

On the date of your issuing, to the Supplier, the Operational Acceptance Certificate for the System, the value of this guarantee will be reduced to any sum(s) not exceeding..... *[insert: **amount(s) 4 in figures and words**]*. This remaining guarantee shall expire no later than.....*[insert: **number** and select: **of months/of years** (of the Warranty Period that needs to be covered by the remaining guarantee)]* from the date of the Operational Acceptance Certificate for the System[2], and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under 15 (a) is hereby excluded.

_____

[Signature(s)]

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

[1] *The bank shall insert the amount(s) specified and denominated in the SCC for GCC Clauses 13.3.1 and 13.3.4 respectively, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Procuring Entity.*

[2] *In this sample form, the formulation of this paragraph reflects the usual SCC provisions for GCC Clause 13.3. However, if the SCC for GCC Clauses 13.3.1 and 13.3.4 varies from the usual provisions, the paragraph, and possibly the previous paragraph, need to be adjusted to precisely reflect the provisions specified in the SCC.*

5.2 Advance Payment Security

Demand Bank Guarantee

[Guarantor Form head or SWIFT identifier code]

Beneficiary: ..... *[insert: **Name and Address of Procuring Entity**]*

Date: ..... *[**insert date of issue**]*

ADVANCE PAYMENT GUARANTEE No.: ..... [*insert: **Advance Payment Guarantee Number**]*

Guarantor: ..... *[Insert name and address of place of issue, unless indicated in the Form head]*

We have been informed that on.....*[insert: **date of award**]* you awarded Contract No. *[insert: **Contract number**]* for .....*[insert: **title and/or brief description of the Contract**]* (here in after called "the Contract") to *[insert: **complete name of Supplier, which in the case of a joint venture shall be the name of the joint venture**]* (here in after called" the Applicant").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of ***[insert: amount in numbers and words, for each currency of the advance payment]*** is to be made to the Supplier against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of..... *[Insert amount in figures]* ( ) *[insert amount in words]*[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

(a) Has used the advance payment for purposes other than toward delivery of Goods; or

(b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number.....*[insert number]*at.....*[insert name and address of Applicant's bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety
(90) percent of the Accepted Contract Amount, has been certified for payment, or on the.....*[insert day]* day of.....*[insert month]*, 2 *[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

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

7. Installation and Acceptance Certificates *(insert format)*

Installation Certificate

Date: ..... ***[insert: date]***

ITT: ..... ***[insert: title and number of ITT]***

Contract: ..... ***[insert: name and number of Contract]***

To: ..... ***[insert: name and address of Supplier]***

Dear Sir or Madam:

Pursuant to GCC Clause 26 (Installation of the System) of the Contract entered into between yourselves and the..... ***[insert: name of Procuring Entity]*** (hereinafter the "Procuring Entity") dated..... ***[insert: date of Contract],*** relating to the.....***[insert: brief description of the Information System],*** we hereby notify you that the System (or a Subsystem or major component thereof) was deemed to have been correctly installed on the date specified below.

1. Description of the System (or relevant Subsystem or major component: ..... ***[insert: description]***

2. Date of Installation: ..... ***[insert: date]***

Notwithstanding the above, you are required to complete the outstanding items listed in the attachment to this certificate as soon as practicable. This Form shall not relieve you of your obligation to achieve Operational Acceptance of the System in accordance with the Contract nor of your obligations during the Warranty Period.

For and on behalf of the Procuring Entity

Signed: .....

Date: .....

in the capacity of: .....[***state: "Project Manager" or state the title of a higher-level authority in the Procuring Entity's organization]***

6.2 Operational Acceptance Certificate

Date: .....*[insert: date]*

ITT: .....*[insert: title and number of ITT]*

Contract: .....*[insert: name of System or Subsystem and number of Contract]*

To: .....*[insert: name and address of Supplier]*

Dear Sir or Madam:

Pursuant to GCC Clause 27 (Commissioning and Operational Acceptance) of the Contract entered into between yourselves and the.....***[insert: name of Procuring Entity]*** (hereinafter the "Procuring Entity") dated..... ***[insert: date of Contract],*** relating to the.....***[insert: brief description of the Information System],*** we hereby notify you the System (or the Subsystem or major component identified below) successfully completed the Operational Acceptance Tests specified in the Contract. In accordance with the terms of the Contract, the Procuring Entity here by takes over the System (or the Subsystem or major component identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the System (or Subsystem or major component): .....[***insert: description]***

2. Date of Operational Acceptance: .....[***insert: date]***

This Form shall not relieve you of your remaining performance obligations under the Contract nor of your obligations during the Warranty Period.

For and on behalf of the Procuring Entity

Signed: .....

Date: .....

in the capacity of: .....***[state: "Project Manager" or higher-level authority in the Procuring Entity's organization]***

7. Change Order Procedures and Forms

Date: .....*[insert: date]*

ITT: .....*[insert: title and number of ITT]*

Contract: .....*[insert: name or System or Subsystem and number of Contract]*

General

This section provides samples of procedures and forms for carrying out changes to the System during the performance of the Contract in accordance with GCC Clause 39 (Changes to the System) of the Contract.

Change Order Log

The Supplier shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Change Orders authorized or pending. Changes shall be entered regularly in the Change Order Log to ensure that the log is kept up-to-date. The Supplier shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the Procuring Entity.

References to Changes

1) Request for Change Proposals (including Application for Change Proposals) shall be serially numbered CR-nnn.
2) Change Estimate Proposals shall be numbered CN-nnn.
3) Estimate Acceptances shall be numbered CA-nnn.
4) Change Proposals shall be numbered CP-nnn.
5) Change Orders shall be numbered CO-nnn. On all forms, the numbering shall be determined by the original CR-nnn.

Annexes

7.1 Request for Change Proposal Form

7.2 Change Estimate Proposal Form

7.3 Estimate Acceptance Form

7.4 Change Proposal Form

7.5 Change Order Form

7.6 Application for Change Proposal Form

7.1 Request for Change Proposal Form

(Procuring Entity's Form head)

Date: .....*[insert: date]*
ITT: .....*[insert: title and number of ITT]*
Contract: .....*[insert: name of System or Subsystem or number of Contract]*
To: .....*[insert: name of Supplier and address]*
Attention: .....*[insert: name and title]*

Dear Sir or Madam:

With reference to the above-referenced Contract, you are requested to prepare and submit a Change Proposal for the Change noted below in accordance with the following instructions within ***[insert: number]*** days of the date of this Form.

1. Title of Change: [***insert: title]***
2. Request for Change No./Rev.: [***insert: number]***
3. Originator of Change: ***[select Procuring Entity / Supplier (by Application for Change Proposal), and add: name of originator]***
4. Brief Description of Change: ***[insert: description]***
5. System (or Subsystem or major component affected by requested Change): [***insert: description]***
6. Technical documents and/ or drawings for the request of

   Change: Document or Drawing No. Description
7. Detailed conditions or special requirements of the requested Change: [***insert: description]***
8. Procedures to be followed:
   a) Your Change Proposal will have to show what effect the requested Change will have on the Contract Price.
   b) Your Change Proposal shall explain the time it will take to complete the requested Change and the impact, if any, it will have on the date when Operational Acceptance of the entire System agreed in the Contract.
   c) If you believe implementation of the requested Change will have a negative impact on the quality, operability, or integrity of the System, please provide a detailed explanation, including other approaches that might achieve the same impact as the requested Change.
   d) You should also indicate what impact the Change will have on the number and mix of staff needed by the Supplier to perform the Contract.
   e) You shall not proceed with the execution of work related to the requested Change until we have accepted and confirmed the impact it will have on the Contract Price and the Implementation Schedule in writing.

9. As next step, please respond using the Change Estimate Proposal form, indicating how much it will cost you to prepare a concrete Change Proposal that will describe the proposed approach for implementing the Change, all it's elements, and will also address the points in paragraph 8 above pursuant to GCC Clause 39.2.1. Your Change Estimate Proposal should contain a first approximation of the proposed approach, and implications for schedule and cost, of the Change.

For and on behalf of the Procuring Entity

Signed: .....

Date: .....

in the capacity of: .....[***state: "Project Manager" or higher-level authority in the Procuring Entity's organization]***

7.2 Change Estimate Proposal Form

(Supplier's Form head)

Date: .....*[insert: date]*

ITT: .....*[insert: title and number of ITT]*

Contract: .....*[insert: name of System or Subsystem and number of Contract]*

To: .....*[insert: name of Procuring Entity and address]*

Attention: ..... *[insert: name and title]*

Dear Sir or Madam:

With reference to your Request for Change Proposal, we are pleased to notify you of the approximate cost of preparing the below-referenced Change in accordance with GCC Clause 39.2.1 of the Contract. We acknowledge that your agreement to the cost of preparing the Change Proposal, in accordance with GCC Clause 39.2.2, is required before we proceed to prepare the actual Change Proposal including a detailed estimate of the cost of implementing the Change itself.

1. Title of Change: .....*[insert: title]*

2. Request for Change No./Rev.: .....*[insert: number]*

3. Brief Description of Change (including proposed implementation approach): .....*[insert: description]*

4. Schedule Impact of Change (initial estimate): .....*[insert: description]*

5. Initial Cost Estimate for Implementing the Change: .....*[insert: initial cost estimate]*

6. Cost for Preparation of Change Proposal*:* .....*[insert: cost in the currencies of the Contract]*, as detailed below in the breakdown of prices, rates, and quantities.

For and on behalf of the Supplier Signed:

.....

Date: .....

in the capacity of: .....*[state: "Supplier's Representative" or other higher-level authority in the Supplier's organization]*

7.3 **Estimate Acceptance Form**

(Procuring Entity's Form head) Date: .....*[insert: date]*

ITT.....*[insert: title and number of ITT]*

Contract: .....*[insert: name of System or Subsystem and number of Contract]*

To: .....*[insert: name of Supplier and address]*

Attention: .....*[insert: name and title]*

Dear Sir or Madam:

We hereby accept your Change Estimate and agree that you should proceed with the preparation of a formal Change Proposal.

1. Title of Change: *[insert: title]*

2. Request for Change No./ Rev.: *[insert: request number /revision]*

3. Change Estimate Proposal No./ Rev.: *[insert: proposal number/ revision]*

4. Estimate Acceptance No./ Rev.: *[insert: estimate number/ revision]*

5. Brief Description of Change: *[insert: description]*

6. Other Terms and Conditions:

In the event that we decide not to order the Change referenced above, you shall be entitled to compensation for the cost of preparing the Change Proposal up to the amount estimated for this purpose in the Change Estimate Proposal, in accordance with GCC Clause 39 of the General Conditions of Contract.

For and on behalf of the Procuring Entity

Signed: .....

Date: .....

in the capacity of: .....*[state: "Project Manager" or higher-level authority in the Procuring Entity's organization]*

7.4 Change Proposal Form

(Supplier's Form head)

Date: .....*[insert: date]*
ITT: .....*[insert: title and number of ITT]*
Contract: .....*[insert: name of System or Subsystem and number of Contract]*

To: .....*[insert: name of Procuring Entity and address]*

Attention: .....***[insert: name and title]***

Dear Sir or Madam:

In response to your Request for Change Proposal No. *[insert: number]*, we here by submit our proposal as follows:

1. Title of Change: *[insert: name]*

2. Change Proposal No./ Rev.: *[insert: proposal number /revision]*

3. Origin at or of Change: *[select: Procuring Entity /Supplier; and add: name]*

4. Brief Description of Change: *[insert: description]*

5. Reasons for Change: *[insert: reason]*

6. The System Subsystem, major component, or equipment that will be affected by the requested Change: *[insert: description]*

7. Technical documents and/ or drawings for the requested Change: Document or Drawing No. Description

8. Estimate of the increase/ decrease to the Contract Price resulting from the proposed Change: *[insert: amount in currencies of Contract]*, as detailed below in the breakdown of prices, rates, and quantities. Total lump sum cost of the Change:

   Cost to prepare this Change Proposal (i. e., the amount payable if the Change is not accepted, limited as provided by GCC Clause 39.2.6):

9. Additional Time for Achieving Operational Acceptance required due to the Change: *[insert: amount in days/ weeks]*

10. Effect on the Functional Guarantees: *[insert: description]*

11. Effect on the other terms and conditions of the Contract: ***[insert: description]***

12. Validity of this Proposal: for a period of .....*[insert: number]* days after receipt of this Proposal by the Procuring Entity

13. Procedures to be followed:
    a) You are requested to notify us of your acceptance, comments, or rejection of this detailed Change Proposal within.....*[insert: number]* days from your receipt of this Proposal.
    b) The amount of any increase and / or decrease shall be taken into account in the adjustment of the Contract Price.

For and on behalf of the Supplier

Signed: .....

Date: .....

in the capacity of: …… *[state: "Supplier's Representative" or other higher-level authority in the Supplier's organization]*

7.5 Change Order Form

(Procuring Entity's Form head)

Date: .....***[insert: date]***

ITT: .....***[insert: title and number of ITT]***

Contract: .....***[insert: name of System or Subsystem and number of Contract]***

To: .....***[insert: name of Supplier and address]***

Attention: .....***[insert: name and title]***

Dear Sir or Madam:

We hereby approve the Change Order for the work specified in Change Proposal No. ***[insert: number***], and agree to adjust the Contract Price, Time for Completion, and/ or other conditions of the Contract in accordance with GCC Clause 39 of the Contract.

1. Title of Change: [***insert: name]***

2. Request for Change No./ Rev.: [***insert: request number/ revision]***

3. Change Order No./ Rev.: [***insert: order number/ revision]***

4. Origin at or of Change: [***select: Procuring Entity / Supplier; and add: name]***

5. Authorized Price for the Change: Ref. No.: ***[insert: number]*** Date: ***[insert: date]***

[insert: amount in foreign currency A] plus ***[insert: amount in foreign currency B]*** plus ***[insert: amount in foreign currency C]*** plus ***[insert: amount in local currency]***

6. Adjustment of Time for Achieving Operational Acceptance: ***[insert: amount and description of adjustment]***

7. Other effects, if any: ***[state: "none" or insert description]***

For and on behalf of the Procuring Entity

Signed: .....

Date: .....

in the capacity of: .....***[state: "Project Manager" or higher-level authority in the Procuring Entity's organization]***

For and on behalf of the Supplier

Signed: .....

Date: .....

in the capacity of: .....[***state "Supplier's Representative" or higher-level authority in the Supplier's organization]***

7.6 Application for Change Proposal Form

(Supplier's Form head)

Date:

.....*[insert:*

date]

ITT: .....*[insert: title and number of ITT]*

Contract: .....*[insert: name of System or Subsystem and number of Contract]*

To: .....*[insert: name of Procuring Entity and address]*

Attention: .....*[insert: name and title]*

Dear Sir or Madam:

We hereby propose that the below-mentioned work be treated as a

Change to the System.

1. Title of Change: .....*[insert: name]*

2. Application for Change Proposal No./ Rev.: .....*[insert: number/ revision]* dated: [*insert: date]*

3. Brief Description of Change: .....*[insert: description]*

4. Reasons for Change: .....*[insert: description]*

5. Order of Magnitude Estimation: .....*[insert: amount in currencies of the Contract]*

6. Schedule Impact of Change: .....*[insert: description]*

7. Effect on Functional Guarantees, if any: .....*[insert: description]*

8. Appendix: .....*[insert: titles (if any); otherwise state "none"]*

For and on behalf of the Supplier

Signed: .....

Date: .....

in the capacity of: .....*[state: "Supplier's Representative" or higher-level authority in the Supplier's organization]*

7.7 BENEFICIAL OWNERSHIP DISCLOSURE FORM
(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

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

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

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

Tender Reference No.:_____

_____[*insert identification no*] Name of the

Tender Title/Description:_____*[insert name of*

the assignment] to:_____*[insert complete name of Procuring Entity]*

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

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

Details of beneficial ownership

	Details of all Beneficial Owners		**% of shares a person holds in the company Directly or indirectly**	**% of voting rights a person holds in the company**	**Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer** (Yes / No)	**Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)**
	Full Name		Directly---------- % of shares	Directly…….% of voting rights	1. Having the right to appoint a majority of the board of the	1. Exercises significant influence or
	National identity card number or Passport number					

	Details of all Beneficial Owners		**% of shares a person holds in the company Directly or indirectly**	**% of voting rights a person holds in the company**	**Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer** (Yes / No)	**Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)**
1.	Personal Identification Number (where applicable)		Indirectly---------- % of shares	Indirectly---------- % of voting rights	directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct…… Indirect……...	control over the Company body of the Company (tenderer) Yes -----No---- 2. Is this influence or control exercised directly or indirectly? Direct…….. Indirect……
	Nationality					
	Date of birth *[dd/mm/yyyy]*					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
2.	Full Name		Directly---------- % of shares Indirectly---------- % of shares	Directly……. % of voting rights Indirectly---------- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct…… Indirect……...	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No---- 2. Is this influence or control exercised directly or indirectly? Direct…….. Indirect……
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth *[dd/mm/yyyy]*					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
3.						

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

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

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

(a) holds at least ten percent of the issued shares in the company either directly or indirectly;

(b) exercises at least ten percent of the voting rights in the company either directly or indirectly;

(c) holds a right, directly or indirectly, to appoint or remove a director of the company; or

(d) exercises significant influence or control, directly or indirectly, over the company.

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

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

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

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

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

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

Bidder Official Stamp