



**REQUEST FOR PROPOSAL  
FOR  
PROVISION OF CONSULTANCY SERVICE FOR LEGAL AND  
GOVERNANCE AUDIT**

**TENDER NO: ACA/RFP/01/2024-2025**

**CLOSING/OPENING DATE  
12<sup>TH</sup> JUNE, 2025 AT 10.30AM**

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## SECTION I REQUEST FOR PROPOSAL

### CONTRACT NAME AND DESCRIPTION: PROVISION OF CONSULTANCY SERVICE FOR LEGAL AND GOVERNANCE AUDIT AT ANTI-COUNTERFEIT AUTHORITY (ACA)

TENDER NO: ACA/RFP/01/2024-2025

Date 5<sup>th</sup> June 2025

1. Anti Counterfeit Authority (ACA) you to invites submit the proposal for Provision consultancy service for legal audit.
2. Tenderers may obtain further information during office hours 9:00 am to 3:00 pm Monday to Friday at the address given below.
3. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
4. Completed tenders must be submitted **at ACA Headquarters, 3<sup>rd</sup> Floor National Water Plaza Ridge, Dunga Road-Industrial Area Nairobi** on or before **12<sup>th</sup> June, 2025, at 10:30 am.**

Electronic **Tenders will not** be permitted.

5. Enquiries regarding this quotation may be addressed to **eprourement@aca.go.ke**
6. The Tender will be opened immediately after the deadline date and time specified above or any deadline date and time specified later.
7. The addresses referred to above are:

**Executive Director**  
**Anti Counterfeit Authority**  
**P. O. Box 47771-00100, Nairobi**

***Physical Address (for hand and Courier Delivery to an office) should be deposited in the quotation box ACA Headquarters, 3<sup>rd</sup> Floor National Water Plaza Ridge, Dunga Road-Industrial Area Nairobi***

**Yours sincerely,**

**Executive Director**  
**Anti Counterfeit Authority**

## **SECTION II: INSTRUCTIONS TO TENDERER.**

### **2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to eligible tenderers as described in the instructions to tenderers. Successful tenderer shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless were specially.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation to tender.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### **2.2. Cost of tendering**

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The tender documents shall be obtained from the supply chain office at no cost.
- 2.2.3 The procuring entity shall not purchase the documents.

### **2.3 Contents of tender documents.**

- 2.3.1. The tender document comprises of the documents listed below and addenda issued in accordance with the instructions to tenders.
  - i) Instructions to tenderers
  - ii) General Conditions of Contract
  - iii) Special Conditions of Contract
  - iv) Schedule of Requirements
  - v) Details of service
  - vi) Form of tender
  - vii) Price schedules
  - viii) Contract form
  - ix) Confidential business questionnaire form
  - x) Declaration form

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

## **2.4 Clarification of Documents**

- 2.4.1. A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing by post or email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response including an explanation of the query but without identifying the source of inquiry will be sent to all prospective tenderers who have received the tender documents.
- 2.4.2. The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.5 Amendment of documents**

- 2.5.1. At any time prior to the deadline for submission of tenders,
- 2.5.2. The procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify tender documents by issuing an Addendum.
- 2.5.3. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post or email and such amendment will be binding on them.
- 2.5.4. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

## **2.6 Language of tender**

- 2.6.1. The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring entity, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## **2.7 Documents Comprising the Tender**

The tender prepared by the tenderer shall comprise the following components:

- a) A Tender Form and a Price Schedule completed in accordance with clause 2.8, 2.9 and 2.10 below.
- b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- c) Confidential business questionnaire

## **2.8 Form of Tender**

- 2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

## **2.9 Tender Prices**

- 2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.
- 2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

## **2.10 Tender Currencies**

- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to in Instructions to Tenderers

## **2.11 Tenderers Eligibility and Qualifications.**

- 2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.
- 2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

## **2.12 Tender Security**

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.
- 2.12.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.
- 2.12.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, .  
Securing

2.12.4 The tender security shall be in form of:

- Insurance firm.
- A bank guarantees.

2.12.2 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.2 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20

2.12.3 Unsuccessful tenderer 's security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the procuring entity.

2.12.4 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.27

2.12.5 **The tender security may be forfeited:**

(a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the tender form; or

(b) In the case of a successful tenderer, if the tenderer fails:

(i) to sign the contract in accordance with paragraph 2.26 or

(ii) to furnish performance security in accordance with paragraph 2.27.

iii) If the tenderer rejects, correction of an error in the tender.

## **2.13 Validity of Tenders**

2.13.1 Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive

2.13.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. A tenderer granting the request will not be required nor permitted to modify its tender.

## **2.14 Format and Signing of Tender**

2.14.1 The tenderer shall prepare an original and a copy of technical and also original and a copy of financial tender, clearly / marking each

—**ORIGINAL TENDER** and —**COPY OF TENDER**, as appropriate. In the event of any discrepancy between them, the original shall govern.

2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

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

## **2.15 Sealing and Marking of Tenders**

- 2.15.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as —**ORIGINAL** and —**COPY**. The envelopes shall then be sealed in an outer envelope.
- 2.15.1 The inner and outer envelopes shall:
- (a) The outer shall be addressed to the Procuring entity at the address given in the invitation to tender
  - (b) Bear tender reference number and name in the invitation to tender .
- 2.15.2 The inner envelopes shall indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared late.
- 2.15.3 If the outer envelope is not sealed and marked as required, the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.

## **2.16 Deadline for Submission of Tenders**

- 2.16.1 Tenders must be received by the Procuring entity at the address specified in the tender document not later than (day, date and time of closing in the invitation letter)
- 2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.
- 2.16.3 Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the Act.

## **2.17 Modification and withdrawal of tenders**

- 2.17.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tender's is received by the procuring entity prior to the deadline prescribed for the submission of tenders.
- 2.17.2 The Tenderer 's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph. A withdrawal notice may also be sent via email, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.17.3 No tender may be modified after the deadline for submission of tenders.
- 2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form.



- 2.17.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.17.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.18 Opening of Tenders**

- 2.18.1 The Procuring entity will open all tenders in the presence of tenderers representatives who choose to attend, and in the location specified in the invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.18.3 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.
- 2.18.4 The procuring entity will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and if will have made the request.

## **2.19 Clarification of tenders**

- 2.19.1 To assist in the examination, evaluation and comparison of tenders the procuring entity may at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.
- 2.19.2 Any effort by the tenderer to influence the procuring entity in the procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers tender. Comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.20 Preliminary Examination and Responsiveness**

- 2.20.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.20.3 The Procuring entity may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.20.4 Prior to the detailed evaluation, pursuant to the appendix to instructions to tenderers, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these

paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender 's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.20.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

## **2.21 Conversion to a single currency**

2.21.1 Where other currencies are used, the procuring entity will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

## **2.22 Evaluation and comparison of tenders.**

2.22.1 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.

2.22.3 The Procuring entity 's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph and in the technical specifications:

2.22.4 Pursuant to paragraph 2.22.3 the following evaluation methods Will be applied:

a) Operational Plan.

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

b) Deviation in payment schedule.

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer

2.22.5 Tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

2.22.6 To qualify for contract awards, the tenderer shall have the following: -

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing
- (d) Shall not be debarred from participating in public procurement.

## **2.23 Contacting the procuring entity**

- 2.23.1 No tenderer shall contact the procuring entity on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.
- 2.23.2 Any effort by a tenderer to influence the procuring entity in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

## **2.24 Award of Contract**

### **a) Post qualification**

- 2.24.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.
- 2.24.2 The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the Procuring entity deems necessary and appropriate.
- 2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer 's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer 's capabilities to perform satisfactorily

### **b) Award Criteria**

- 2.24.3 The Procuring entity will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.
- 2.24.4 The procuring entity reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity 's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity shall notify each tenderer who submitted a tender.
- 2.24.5 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Notification of award**

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

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.26. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon notifying the successful tenderer's the Procuring entity will promptly notify each unsuccessful Tenderer.

## **2.26 Signing of Contract**

2.26.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

2.26.2 After fourteen (14) days of receipt, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.26.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## **2.27 Performance Security**

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

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.26 or paragraph 2.27.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders

## **2.28 Corrupt or Fraudulent Practices**

2.28.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

2.28.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

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

## **TENDER DATA SHEET (TDS)**

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

<b>A. General</b>	
<b>ITT 1</b>	<p>The Reference number of the invitation for Tenders is <b>ACA/RFP/01/2024-2025</b></p> <p>The Procuring Entity is <b><i>Anti Counterfeit Authority (ACA)</i></b></p> <p>The name of the Tender is: <b>PROVISION OF CONSULTANCY SERVICE FOR LEGAL AND GOVERNANCE AUDIT</b></p> <p>The number and identification of lots (contracts) comprising this Invitation for Tenders is: <b><i>[N/A]</i></b></p>
<b>ITT 2</b>	<p><b>Electronic – Procurement System</b></p> <p>The Procuring Entity shall use the following electronic-procurement system to manage this Tendering process:</p> <p><b><i>[N/A]</i></b></p> <p><b>Emails</b> shall be used to manage the following aspects of the Tendering process: <b><i>[Issuing Tendering document, Clarifications and Addendum]</i></b></p>
<b>ITT 3</b>	The information made available on competing firms is as follows: <b><i>[N/A]</i></b>
<b>ITT 4</b>	The firms that provided consulting services for the contract being tendered for are: <b><i>[N/A]</i></b>
<b>ITT 5</b>	Maximum number of Joint Venture JV shall be: N/A
<b>ITT 6</b>	A list of debarred firms and individuals is available on the PPRA's website: <a href="http://www.ppra.go.ke">www.ppra.go.ke</a>
<b>B. Contents of Tendering Document</b>	
<b>ITT 7</b>	<p>a) Address where to send enquiries is</p> <p style="text-align: center;"><b>Executive Director, Anti Counterfeit Authority P. O. Box 4771-00100, Nairobi</b></p> <p style="text-align: center;"><b>Physical Address: National Water Plaza, Dunga Road, Industrial Area, Nairobi</b></p> <p><b>Email address:</b> <a href="mailto:eprocurement@aca.go.ke">eprocurement@aca.go.ke</a> to reach Procuring Entity not later than five (5) days before tender submission date at 5.00pm</p> <p>b) The Procuring Entity publish its responses at the website: N/A</p>
<b>ITT 8</b>	N/A
<b>ITT 9</b>	<p>The clarifications may be requested not later than 3 days prior to the submission deadline.</p> <p>The contact information for requesting clarification is; Email: <a href="mailto:eprocurement@aca.go.ke">eprocurement@aca.go.ke</a></p>
<b>C. Preparation of Tenders</b>	
<b>ITT 10</b>	The prices quoted by the Tenderer <b><i>shall not be</i></b> subject to adjustment during the performance of the Contract.

ITT 11	Place of final destination: <i>[ACA Headquarters, 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road Industrial Area-Nairobi]</i>
ITT 12	Final Destination (Project Site): <i>[ACA Headquarters 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road Industrial Area-Nairobi]</i>
ITT 13	Named place of destination, in Kenya is <i>ACA Headquarters 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road Industrial Area-Nairobi</i>
ITT 14	The price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination which is <i>[ all prices, levy and taxes where applicable to be included in the total tender price]</i>
ITT 15	The Place of final destination (Project Site) is <i>ACA Headquarters, 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road Industrial Area-Nairobi</i>
ITT 16	Foreign Currency requirements <i>not allowed.</i>
ITT 17	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>[continuous]</i>
ITT 18	Price proposal shall be stated in Kenya Shillings(KES)
ITT 19	The Tender Validity period shall be <b>150</b> days.
ITT 20	The Number of days beyond the expiry of the initial tender validity period will be <b>30</b> days.
ITT 21	Original tender security Value for Kshs. <b>N/A</b>
ITT 22	In addition to the original of the Tender, the number of copies is: <b>One</b>
ITT 23	The bidder shall provide a written Power of Attorney as a confirmation of authorization to sign on behalf of the Tenderer.
<b>D. Submission and Opening of Tenders</b>	
ITT 24	<p>(A) For <u>Tender submission purposes</u> only, the tenderer shall submit:</p> <p>Technical Proposal: one (1) original and one (1) copy</p> <p>Financial Proposal: one (1) Original and one (1) copy</p> <p>The original and copy of the technical proposal shall be enclosed in plain sealed envelope clearly marked technical proposal and the original and the copy of the financial proposal in a separate sealed envelope clearly marked financial proposal.</p> <p>Both envelopes shall be placed in one envelope and sealed with tender name, reference number and submitted to</p> <p style="text-align: center;"><b>Executive Director, Anti Counterfeit Authority P. O. Box 4771-00100, Nairobi</b></p> <p style="text-align: center;"><b>Physical Address: National Water Plaza, Dunga Road, Industrial Area, Nairobi</b></p> <p>and dropped at ACA Headquarters quotation box located at the reception so as to be received on or before, <b>12th June , 2025 at 10:30AM</b></p> <p><b>The deadline for Tender submission is: Date: 12th June at 10:30AM</b></p> <p>Time: <b>10:30AM</b></p>

	<i>Tenderers <b>shall not</b> have the option of submitting their Tenders electronically.</i>
ITT 25	<p>The Tender opening shall take place at: <b>Boardroom, Anti Counterfeit Authority</b>  Postal Address: <b>4771 - 00100</b>  Physical Address: <b>Anti Counterfeit Authority Nairobi, Kenya – 3<sup>rd</sup> Floor, National Water Plaza, Dunga Road Industrial Area, Nairobi</b>  Date <b>12th June ,2025</b>  Time: <b>10:30AM.</b></p>
ITT 26	The number of representatives of the Procuring Entity to sign is <i>(as per the appointed Tender opening Committee)</i>
<b>E. Evaluation, and Comparison of Tenders</b>	
ITT 27	The manner of rectify quantifiable nonmaterial nonconformities described below: N/A
ITT 28	The currency that shall be used for Tender evaluation and comparison purposes is <b>Kenya Shillings.</b>
ITT 29	<p>A margin of preference and/or reservation <b>shall not</b> apply and specify the details.</p> <p>If a margin of preference applies, the application methodology shall be defined in Section III – Evaluation and Qualification Criteria.</p>
ITT 30	The invitation to tender is extended to the following group that qualify for Reservations [N/A]
ITT 31	Price evaluation will be done for all items in the price schedule
ITT 32	Additional evaluation factors are as per evaluation criteria
ITT 33	The adjustments shall be determined using the following criteria, from amongst those set out in section III, Evaluation and Qualification Criteria [N/A]
	<b>F. Award of Contract</b>

<b>ITT 34</b>	Performance security is required and shall <b>be 5%</b> of Contract Sum in the form of an unconditional bank guarantee from a reputable commercial bank shall be provided by the Winning bidder <b>N/A</b>
<b>ITT 35</b>	<p>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 <a href="http://www.ppra.go.ke">www.ppra.go.ke</a></p> <p>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:</p> <p>For the attention: <b>Executive Director.</b></p> <p>Procuring Entity: <b>Anti Counterfeit Authority.</b></p> <p>Email address: <a href="mailto:info@aca.go.ke">info@aca.go.ke</a></p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ol style="list-style-type: none"> <li>1. the terms of the Tender Documents; and</li> <li>2. The Procuring Entity’s decision to award the contract.</li> </ol>

**(a) EVALUATION OF TENDERS.**

Evaluation of tenders shall be carried out in accordance with the criteria set out in this tender document.

The evaluation shall be as follows:

- Preliminary Evaluation
- Technical and
- Financial Evaluation

**a) Preliminary Evaluation**

<b>Evaluation and Comparison of Tenders- Documentary Evidence in form of copies.</b>				
<b>No</b>	<b>1. Mandatory Requirements</b>			<b>Yes/No</b>
1	Copy of Registration Certificate/Certificate of Incorporation			
2	Valid copy of Tax Compliance Certificate (Will be verified on the KRA TCC Checker)			
3	Must Submit duly filled and signed form of tender			
4	Must attach a duly filled, signed & stamped confidential business questionnaire			
5	Must have previously implemented the above assignment successfully to least four clients (State corporation). The assignments must be supported by completion certificate.			
6	Tender document must be sequentially serialized.			
7	Tenderer must provide original and copy of tender document as indicated.			

**Responsive** ✓

**Non-responsive** (X)

**At this stage, the tenderer’s submission will either be responsive or non- responsive. Failure to provide ANY of the above mandatory requirements will lead to disqualification**



**b) Technical Evaluation. Technical Evaluation.**

<b>CRITERIA</b>		<b>MAX POINTS</b>
<b>(I) Specific experience of the Consultant, as a firm, relevant to the Assignment:</b>		<b>10 points</b>
a) Experience in carrying out Governance & Legal Compliance Audits-(Bidder to include in the firm's profile/CV (format provided) detailed information of undertaking similar assignments)-Attach Evidence <ul style="list-style-type: none"> <li>• 15 years &amp; above–5 points</li> <li>• 5 to 14 years–3 points</li> <li>• Below 5 years–1 point]</li> </ul>	<b>5</b>	
b) Submit proof in form of Four (4) Reference Letters from State Corporation clients offering both Legal and Governance Audit Consultancies & number of years so offered (1.25 points for each with max 5 points). Address letters to KEPHIS	<b>5</b>	
<b>(II) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs):</b>		<b>40 points</b>
a) Technical approach and methodology	<b>20</b>	
b) Work plan	<b>10</b>	
c) Organization and staffing	<b>10</b>	
<u>Notes to Consultant:</u> 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]		
<b>(III) Key Experts' qualifications and competence for the Assignment:</b>		<b>50 points</b>
<b>{Notes to Consultant: each position number corresponds to the same for the Key Experts in Form TECH-6to be prepared by the Consultant}</b>		
a) Lead Consultant. <ul style="list-style-type: none"> <li>i) A Governance Auditor with a valid Governance Auditor Certificate from the Institute of Certified Secretaries (ICS) Kenya and in good standing (Provide Certified Copies)–5 points</li> <li>ii) Advocate of the High Court of Kenya with current valid Practicing Certificate and Trained Legal Auditor (Provide Certified Copy)- 5 points</li> <li>iii) Years of relevant experience: - 5 points               <ul style="list-style-type: none"> <li>• Over 10 years–5points</li> <li>• 5 to 9 years–3points</li> <li>• Under 5 years–1point</li> </ul> </li> <li>iv) Governance and Legal audits undertaken (Provide evidence)– 10 points               <ul style="list-style-type: none"> <li>• 5 and above–10points</li> </ul> </li> </ul>	<b>25</b>	

•3 to 4 audits–5points •1 to 2 audits–3point		
<b>b) Deputy Lead Consultant</b>	<b>15</b>	
i) A Governance Auditor with a valid Governance Auditor Certificate from the Institute of Certified Secretaries (ICS)Kenya and in good standing (Provide Certified Copies)– 3 points ii) Advocate of the High Court of Kenya with current valid Practicing Certificate (Provide Certified Copy)- 3 points iii) Years of relevant experience: - 4 points <ul style="list-style-type: none"> <li>• Over 10 years–4points</li> <li>• 5 to 9 years–3points</li> <li>• Under 5 years–1 point</li> </ul> iv)Governance and Legal Audits undertaken (Provide evidence)– 5 points <ul style="list-style-type: none"> <li>• 5 and above–5points</li> <li>• 3 to 4 audits–3points</li> <li>• 1 to 2 audits–1point</li> </ul>		
<b>c) Other Key Staff</b>	<b>10</b>	
Other Key Staff with a combination of qualified staff in Law, Corporate Governance, Legal Research or other related field (5 Points per staff) (Attach copies of relevant Certificates and Curriculum Vitae)		
<b><u>TOTAL</u></b>	<b>100</b>	

c)

## FINANCIAL EVALUATION

Kindly note that the financial document shall be opened if the bidder passes both Mandatory and Technical evaluation. The pass mark shall be 80%. In case of Unsuccessful technical proposals, their financial proposal will be returned unopened. Tenderers are therefore required to submit a separate financial proposal as shown in the appendix to instructions to tenderers, ONLY with the following requirements;

NO	CRITERIA B	MARKS
1	Tender Securing Declaration form as per provided standard format	100% compliance
2	Lowest Evaluated price after considering arithmetic errors in the price schedule of requirements.	
3	Duly filled, stamped and signed Tender Form in the format provided	

## **SECTION III GENERAL CONDITIONS OF CONTRACT**

### **3.1 Definitions**

In this contract the following terms shall be interpreted as indicated:

- a) The contract means the agreement entered into between the Procuring entity and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) The Contract Price means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) The services mean services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the Procuring entity under the Contract.
- d) The Procuring entity means the organization sourcing for the services under this Contract.
- e) The contractor means the individual or firm providing the services under this Contract.
- f) GCC means general conditions of contract contained in this section
- g) SCC means the special conditions of contract
- h) CD means calendar day

### **3.2 Application**

These General Conditions shall apply to the extent that they are not super ceded by provisions of other part of contract.

### **3.3 Standards**

Contract shall conform to the standards mentioned in the Schedule of requirements

### **3.4 Standard services**

The services provided under this Contract shall conform to the standards mentioned in the Schedule of requirements

### **3.5 Patent Right's**

The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### **3.6 Performance Security**

There shall be no performance security

### **3.7 Inspections and Tests**

- 3.7.1 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 3.7.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.
- 3.7.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.
- 3.7.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.8 Payment**

- 3.8.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC

### **3.9 Prices**

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

### **3.10 Assignment**

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

### **3.11 Termination for Default**

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

- a) If the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the tenderer fails to perform any other obligation(s) under the Contract.
- c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in

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

### **3.12 Termination of insolvency**

The procuring entity may at the anytime terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

### **3.13 Termination for convenience**

3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the procuring entity may select to cancel the services and pay to the contractor on agreed amount for partially completed services.

### **3.14 Resolution of disputes.**

The procuring entity 's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.15 Governing Language**

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

### **3.16 Force Majeure**

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

### **3.17 Applicable Law.**

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC

### **3.18 Notices**

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or E-mail and confirmed in writing to the other party's address specified in the SCC. A notice shall be effective when delivered or on the notices effective date, whichever is later.

## SECTION IV SPECIAL CONDITIONS OF CONTRACT

4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2 Special conditions of contract with reference to the general conditions of contract.

S/NO	SPECIAL CONDITIONS OF CONTRACT
1	Payment schedule shall be made in phases
2	Prices charged by the tenderer for services performed under the Contract shall not vary from the prices by the tenderer in its tender, unless at the discretion of the procuring entity through its tender Committee.
3	Contract remains valid for 90 days after the contract signing and any considerations to extend lies with the procuring entity 's immediate needs and after expiry of this period.

## SECTION V SCHEDULE OF REQUIREMENTS

5.1 General Requirements

### **TERMS OF REFERENCE – LEGAL AND GOVERNANCE AUDIT**

#### **1. BACKGROUND**

The Anti-Counterfeit Authority is a state corporation established under the Anti-Counterfeit Act, No. 13 of 2008. The Anti-Counterfeit Authority is established under section 3 of the Anti-Counterfeit Act, 2008. Its mandate is as follows:-

- i) Enlighten and inform the public on matters relating to counterfeiting;
- ii) Combat counterfeiting, trade and other dealings in counterfeit goods in Kenya in accordance with the Anti-Counterfeit Act No. 13 of 2008 or under any other written law;
- iii) Devise and promote training programs to combat counterfeiting;
- iv) Co-ordinate with national, regional or international organizations involved in combating counterfeiting;
- v) Carry out any other functions prescribed for it under any of the provisions of the Act or under any other written law; and

vi) Perform any other duty that may directly or indirectly contribute to the attainment of the foregoing.

## **2. OBJECTIVES**

The objectives of the Legal and Governance Audit shall be to:

- 2.1 Establish the extent of compliance with the current framework of laws, regulations and policies under which the Authority operates.
- 2.2 Systematically review of the Authority's structure, appointments, meetings, procedure for meetings, transactions, financial reporting, accountability, maintenance of Records, Policies, and Practices to establish compliance with good governance parameters among other relevant Standards.
- 2.3 Establish the adherence to the relevant Laws relating to good corporate governance, ethics, Rules, Regulations, Governance Standards, Mwongozo Code of Governance, Board Charter, Policies and Organizational procedures and manuals under which the Authority operates.
- 2.4 Review the existing governance structures and practices to assess conformity with highest standards of good governance.
- 2.5 Enable the Authority identify and adhere to good corporate governance as well as ensure it conducts its operations in accordance with all relevant laws and best regulatory practices anchored in accepted principles of good governance, accountability and transparency.

## **3. SCOPE OF SERVICES**

The Consultant will be required to provide the professional services necessary to undertake a comprehensive Legal Compliance and Governance Audit and will be expected to work within the Terms of Reference (TOR's) to deliver quality output in accordance with the objectives of this assignment.

The Consultant shall be expected to: -

- 3.1 . Identify and document the current framework of laws, regulations and policies under which the Authority operates;
- 3.2 Assess the extent of the Authority's compliance with statutory obligations;
- 3.3 Identify the gaps in compliance, the existing risks and propose a compliance strategy to boost compliance levels of the Authority;
- 3.4 Evaluate existing policies and procedures that support the legal and compliance functions to assess their adequacy in supporting the Authority's regulatory framework;
- 3.5 Develop a compliance check matrix and implementation framework that will ensure all regulatory and reporting requirements are met and that is in line with best practices and in agreement with the Authority's strategic plan and overall mandate;
- 3.6 Generate a Legal Audit report of the compliance findings and recommendations.
- 3.7 Identify and analyze the governance parameters which the Authority is required to operate within,

under the Constitution of Kenya 2010, attendant legislation and best practices. These parameters shall include: -

- 3.1.1 Leadership and strategic management;
- 3.1.2 Transparency and Disclosure
- 3.1.3 Communication with Stakeholders
- 3.1.4 Board independence and Governance
- 3.1.5 Board systems and procedures
- 3.1.6 Consistent stakeholders' value and enhancement
- 3.1.7 Corporate social responsibility and enhancement

3.8 Evaluate the Authority's existing governance structures, policies and procedures and assess the extent of their compliance with these governance parameters;

3.9 Develop performance evaluation procedures for the Authority's governance structures;

Examine all Circulars, practices and procedures to determine compliance with the law, good corporate governance practices in accordance with Mwongozo;

3.10 Identify and interview the relevant personnel charged with governance audit matters;

3.11 Identify non-compliance and propose measures to be put in place to ensure compliance;

3.12 Prepare and submit reports of the Governance Audit findings and recommendations; and

3.13 Prepare a tailor – made legal and governance audit tool/matrix.

3.14 Present the report and matrix of implementation of the recommendations to the Board and Management.

#### **4. QUALIFICATIONS AND COMPETENCIES**

4.1 The Consultant(s) should provide adequate information indicating that he/she is/are qualified to undertake the assignment successfully (description of similar assignments, experience in similar assignments preferably in the public sector, availability of appropriate skills, competencies and qualifications of professional staff if any).

4.2 The team leader shall have an advanced degree (Masters Degree and professional Qualification in this field) and at least 10 years' experience at senior Management level or consultancy;



4.3 He/She should have successfully implemented at least six (6) assignments in the field of Governance Audit consultancy.

4.4 The Consultant should be an accredited governance auditor and should be in good standing with the Institute of Certified Secretaries Kenya (ICS).

4.5 He/She shall be a member of a recognized professional body and must possess computer navigation skills. Evidence of the above must be provided.

4.6 The key staff should have successfully implemented three (3) assignments in the field of Governance Audit consultancy.

## **5. DOCUMENTATION TO BE PROVIDED**

Interested Parties are therefore invited to respond and provide:

5.1 Their corporate profile.

5.2 Previous/current similar assignments undertaken.

5.3 Either a Certificate of Accreditation or letter from Institute of Certified Secretaries confirming that the team leader is an Accredited Governance Auditor.

5.4 Contacts of three (3) current referees.

5.5 A detailed technical and financial proposal.

5.6 A letter to confirm good standing from ICS.

5.7 Any other relevant information.

## **6. METHODOLOGY**

Whereas not limited, it is anticipated that the Consultant shall use a combination of the following methodologies to deliver the objectives of the assignment:

6.1 Desk review of existing documentation.

6.2 Formal and informal interviews.

6.3 Structured questionnaire.

## **7. REPORTING**

The Consultant shall report to the Corporation Secretary during the entire duration of the assignment. A detailed reporting schedule and timeliness will be discussed prior to signing the consulting agreement.

The Consultant shall provide the following reports:

7.1 An inception report.

7.2 Interim Report of Governance audit findings and a draft performance evaluation of the Authority's governance structures.

7.3 Final Report of the governance audit findings and recommendations and the final performance evaluation procedures for the Authority's governance structures after presentation to the Board and Management.

7.4 Proposed implementation matrix of the recommendations from the Consultant.

## **8. DURATION OF THE CONSULTANCY**

The consultancy will last 20 working days (4 weeks) from the date of signing the contract.

## **9. PAYMENT SCHEDULE**

Payment shall be made according to the following schedule:

- a) First Installment: *Thirty per centum (30%)* of the contract sum upon submission of the inception report.
- b) Second Installment: *Thirty per centum (30%)* upon submission of the interim report.
- c) Third (Final) Installment: *Forty per centum (40%)* upon submission and acceptance of the final report by the Board.

## **1. PORTFOLIO OF EXPERTISE AND QUALIFICATIONS**

The Consultant should provide adequate information indicating that he / she /they, is /are qualified to undertake the assignment successfully as will be set out by the tender and prequalification document in accordance with the Public Procurement Regulatory Authority Rules.

### **(a) The Firm**

The Consultant will be required to demonstrate legal knowledge and Governance skills, expertise, competence and analytical skills and prior experience in undertaking a consultancy of similar nature by providing evidence of similar projects undertaken in the last three (3) years. The firm should have been in existence for more than three (years).

### **(b) The Lead Consultant**

The Lead Consultant should have a Master's degree and a minimum of five (5) years' experience in undertaking similar consultancies with a demonstrable level of acceptance of the results. They should be accredited as a Legal Auditor by a recognized institution. Membership to a professional body and certification will be an added advantage.

(c) **Individual team member’s portfolio of experience.**

The other consultants, (minimum of two) should hold individually a minimum of a Bachelor’s degree in law from a recognized university and a diploma from the Kenya School of law, membership to a professional body and certification will be an added advantage.

**SECTION VI DESCRIPTION OF SERVICES**

**a) Phased Implementation**

The Corporation shall use a phased implementation that will be discussed with the winning bidder. Payment shall also be done upon successful completion of at least three phases until the project is commissioned. **The corporation desires to use a phased implementation process as shown below;**

No	Phase	Implementation details
1	Phase 1	To be agreed upon
2	Phase 2	To be agreed upon
3	Phase 3	To be agreed upon
4	Phase 4	To be agreed upon
5	Phase 5	To be agreed upon
6	Phase 6	To be agreed upon

**PRICE SCHEDULE**

NAME OF TENDERER: .....

TITLE OF TENDER: **PROVISION OF CONSULTATNCY SERVICE FOR LEGAL COMPLIANCE  
AUDIT.**

TENDER NUMBER: **ACA/RFP/01/2024-2025**

S/N	ITEM DESCRIPTION	QUANTITY IF APPLICABLE	UNIT PRICE	TOTAL AMOUNT
1.	The Consultant will be expected to produce the following deliverables during and at the end of the audit Ninety (90) Days:			
	a) An Inception Report;			
	b) Interim Legal Compliance Audit Reports of findings incorporating a draft compliance level with respect to legal requirement;			
	c) The final Legal Compliance Audit Reports.			

**TOTAL COST TO BE TRANSFERRED TO THE FORM OF TENDER AND MUST INCLUDE ALL APPLICABLE TAXES**

**Authorized Official:**

Name \_\_\_\_\_ Signature \_\_\_\_\_

**Date and official stamp**

**SECTION VI STANDARD FORMS**

**FORM OF TENDER**

**Date** \_\_\_\_\_

**Tender No.** \_\_\_\_\_

**To:**

**P.O BOX**

1. Having examined the tender documents including Addenda Nos..... [insert numbers) of which is hereby duly acknowledged, we the undersigned, offer to .....in conformity with the said tender documents for the sum of.....

..... [total tender amount in words and figures] or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

- 2. We undertake, if our Tender is accepted, to provide the services in accordance with the services schedule specified in the Schedule of Requirements.
- 3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to\_\_\_\_\_percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Procuring entity).
- 4. We agree to abide by this Tender for a period of .....[number] days from the date fixed for tender opening of the Instructions to tenders, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
- 5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

**Dated this** \_\_\_\_\_ **day of** \_\_\_\_\_ **2024**  
**(Signature)** \_\_\_\_\_ **[In the capacity of**

**Duly authorized to sign tender for and on behalf of**  
\_\_\_\_\_

*You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2(b) or 2 (c) (Whichever applied to your type of business) and part 3(a) & 3(b) that is mandatory. You are advised that it is a serious offence to give false information on this form*

**Mandatory**

*Part 1 – General: Business Name.....*

*..... Location of business premises. ....*

*..... Plot No.....*

*Street/Road .....*

*Postal Address ..... Tel No. .... Company Mobile ..... E mail address.....*

*Contact Person .....Mobile.....*

*Nature of Business*

**Complete part 2(a), 2(b) or 2(c)**

**Part 2 (a) – Sole Proprietor**

Your name in full .....

Age .....

Nationality .....

Country of origin .....

Citizenship details .....

Part 2 (b) Partnership

Given details of partners as follows:

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

Part 2 (c ) – Registered Company Private or Public

.....

State the nominal and issued capital of company: Nominal  
K che

:Issued Kshs.....

Given details of all directors as follows;

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

Part 3 (a) – Pursuant to section 59(1)(a) ,(2) and (3) of the Public Procurement Assets and Disposal Act related Regulations. This must be signed by all Directors Partner (s) /Sole Proprietor of the Company (or any other applicable legislation in the Country of registration)

I /we the Director(s) of Company/Firm ..... hereby declare that I /we are not a board member, employee or even a relative to any employee of ACA

Given details of partners /Directors /Sole proprietor as follows:			
Name	Nationality	Citizenship Details	Signature
1.....			
2.....			
3.....			
4.....			
5.....			
.....			

### **Mandatory**

Part 3(b) Public Procurement & Assets Disposal Act 2015 and related regulations or any other applicable legislation in the Country of registration).

Pursuant to section 41 of the Public Procurement and Assets Disposal Act 2015, I/ we the Directors/Partners/Sole Proprietor of this Company/Firm

.....confirm that we have not been debarred in Kenya not to Participate in any Tender/Bidding in Kenya.

Name	Nationality	Citizenship Details	Signature
1.....			
2.....			
3.....			
4.....			
5.....			

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

Sign .....Date ..... Stamp.....

## CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_ day of \_\_\_\_ 20\_\_\_\_ between.....[name of procurement entity] of .....[country of Procurement entity](hereinafter called “the Procuring entity”) of the one part and .....[name of tenderer] of .....[city and country of tenderer](hereinafter called “the tenderer”) of the other part.

WHEREAS the procuring entity invited tenders for certain materials and spares. Viz.....[brief description of materials and spares] and has accepted a tender by the tenderer for the supply of those materials and spares in the sum of .....[contract price in words and figures]

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) The Tender Form and the Price Schedule submitted by the tenderer;
  - (b) the Schedule of Requirements;
  - (c) the Terms of references;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract; and
  - (f) the Procuring Entity’s Notification of Award.
  - g) Form of tender
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the materials and spares and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provision of the materials and spares and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.
5. IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Procuring entity)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer)

in the presence of \_\_\_\_\_.

## LITIGATION HISTORY

Information on litigation history in which the Bidder was involved.

OTHER PARTY (IES)	CAUSE OF DISPUTE	AMOUNT INVOLVED (KSHS)



--	--	--

I certify that the above information is correct.

.....  
Date

.....  
Signature of Bidder

**ANTI-CORRUPTION DECLARATION COMITMENT/ PLEDGE**

I/We.....  
of Street, Building, P O Box.....  
.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We .....

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No .....

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name and Title of Signatory.....

## BANK GUARANTEE FOR ADVANCE PAYMENT

To.....

[Name of tender] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the special conditions of contract, which amends the general conditions of contract to provide for advance payment, .....

[Name and address of tenderer] [hereinafter called “the tenderer”] shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said clause of the contract in an amount of .....

*[amount of guarantee in figures and words]*.

We, the .....

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

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

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

Yours truly,

Signature and seal of the Guarantors \_\_\_\_\_  
*[name of bank or financial institution]*

\_\_\_\_\_  
*[address]*

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

**TENDER-SECURING DECLARATION**

Date \_\_\_\_\_

To

We (name and address)\_\_\_\_\_

\_\_\_\_\_Declare the following:

That we;

- a) Have not been debarred from participating in public procurement.
- b) Have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

-----  
Name of Bidder

Signature

Date

(To be signed by authorized representative and officially stamped)  
Corporate Seal (where appropriate)

## PERFORMANCE SECURITY FORM

To: ..... [name of the

Procuring entity]

WHEREAS.....[name of tenderer]

(hereinafter called “the tenderer”) has undertaken, in pursuance of Contract No.\_\_\_\_  
[reference number of the contract] dated\_\_\_\_\_20\_\_\_\_to

supply..... [Description

services](Hereinafter called “the contract”)

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of ..... *[amount of the guarantee in words and figures]*,

and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of

.....  
*[amount of guarantee]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the\_\_\_\_\_day of 20

\_\_\_\_\_  
Signature and seal of the Guarantors

\_\_\_\_\_  
*[name of bank or financial institution]*

\_\_\_\_\_  
*[address]*

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

*(Amend accordingly if provided by Insurance Company)*

## LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS)

\_\_\_\_\_  
\_\_\_\_\_

SIGNED FOR CHIEF EXECUTIVE OFFICER

**REPUBLIC OF KENYA**  
**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

APPLICATION NO..... OF.....20.....

BETWEEN

..... APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

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

**REQUEST FOR REVIEW**

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED ..... (Applicant)

Dated on..... day of ...../...20...

---

**FOR OFFICIAL USE ONLY**

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

**SIGNED**

**Board Secretary**

## NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

---

### **FORMAT**

1. For the attention of Tenderer's Authorized Representative

- i) Name: \_\_\_\_\_ *[insert Authorized Representative's name]*
- ii) Address: \_\_\_\_\_ *[insert Authorized Representative's Address]*
- iii) Telephone: \_\_\_\_\_ *[insert Authorized Representative's telephone/fax numbers]*
- iv) Email Address: \_\_\_\_\_ *[insert Authorized Representative's email address]*

*[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]*

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

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

3. Notification of Intention to Award

- i) Employer: \_\_\_\_\_ *[insert the name of the Employer]*
- ii) Project: \_\_\_\_\_ *[insert name of project]*
- iii) Contract title: \_\_\_\_\_ *[insert the name of the contract]*
- iv) Country: \_\_\_\_\_ *[insert country where ITT is issued]*
- v) 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:

4. Request a debriefing in relation to the evaluation of your tender

Submit a Procurement-related Complaint in relation to the decision to award the contract.

- a) The successful tenderer

- i) Name of successful Tender \_\_\_\_\_
- ii) Address of the successful Tender \_\_\_\_\_
- iii) Contract price of the successful Tender Kenya Shillings \_\_\_\_\_ (in words \_\_\_\_\_)

b) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

S/No.	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason Why Not Evaluated
1				
2				
3				
4				
5				

**(Note a) State NE if not evaluated**

5. How to request a debriefing

- a) DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) BusinessDays of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
  - i) Attention: \_\_\_\_\_ *[insert full name of person, if applicable]*
  - ii) Title/position: \_\_\_\_\_ *[insert title/position]*
  - ii) Agency: \_\_\_\_\_ *[insert name of Employer]*
  - iii) Email address: \_\_\_\_\_ *[insert email address]*
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, *[insert date]* (local time).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
  - i) Attention: \_\_\_\_\_ *[insert full name of person, if applicable]*
  - ii) Title/position: \_\_\_\_\_ *[insert title/position]*
  - iii) Agency: \_\_\_\_\_ *[insert name of Employer]*
  - iv) Email address: \_\_\_\_\_ *[insert email address]*



- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website [www.ppra.go.ke](http://www.ppra.go.ke) or email [complaints@ppra.go.ke](mailto:complaints@ppra.go.ke).

You should read these documents before preparing and submitting your complaint.

- e) There are four essential requirements:
  - i) You must be an ‘interested party’. In this case, that means a Tenderer who submitted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
  - ii) The complaint can only challenge the decision to award the contract.
  - iii) You must submit the complaint within the period stated above.
  - iv) You must include, in your complaint, all of the information required to support your complaint.

## 7. **Standstill Period**

- i) DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).
- ii) The Standstill Period lasts Fourteen (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification please do not hesitate to contact us.

On behalf of the Employer:

**Signature:**

---

**Name:**

---

**Title/position:**

---

**Telephone:**

---

---

Email: \_\_\_\_\_

---

---

**LETTER OF AWARD**

*[Use letter head paper of the Procuring Entity]*

\_\_\_\_\_ *[Date]*

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

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

This is to notify you that your Tender dated \_\_\_\_\_ *[insert date]* for execution of the \_\_\_\_\_ *[insert name of the contract and identification number, as given in the SCC]* for the Accepted Contract Amount of \_\_\_\_\_ *[insert amount in numbers and words and name of currency]*, as corrected and modified in accordance with the Instructions to tenderers is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X, Contract Forms, of the Tendering document.

Authorized

Signature:

---

Name	and Signatory:	Title	of
------	-------------------	-------	----

---

Name	of Agency:
------	---------------

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## CONTRACT AGREEMENT

*[The successful tenderer shall fill in this form in accordance with the instructions indicated]*

THIS AGREEMENT made the \_\_\_\_\_ *[insert: **number**]* day of \_\_\_\_\_ *[insert: **month**]*, *[insert: **year**]*. BETWEEN (1) \_\_\_\_\_ *[insert complete name of Procuring Entity]* and having its principal place of business at *[insert: address of Procuring Entity]* (hereinafter called "Procuring Entity"), of the one part; and (2) *[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at \_\_\_\_\_ *[insert: address of Supplier]* (hereinafter called "the Supplier"), of the other part.

1. WHEREAS the Procuring Entity invited Tenders for certain Goods and ancillary services, viz.,

---

*[insert brief description of Goods and Services]* and has accepted a Tender by the Supplier for the supply of those Goods and Services, the Procuring Entity and the Supplier agree as follows:

- i) In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
  - ii) The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
    - a) the Letter of Acceptance
    - b) the Letter of Tender
    - c) the Addenda Nos. \_\_\_\_\_ (if any)
    - d) Special Conditions of Contract
    - e) General Conditions of Contract
    - f) the Specification (including Schedule of Requirements and Technical Specifications)
    - g) the completed Schedules (including Price Schedules)
    - h) any other document listed in GCC as forming part of the Contract
  - iii) In consideration of the payments to be made by the Procuring Entity to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
2. The Procuring Entity hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
3. IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Kenya on the day, month and year indicated above.

### **For and on behalf of the Procuring Entity**

Signed: \_\_\_\_\_ *[insert signature]*

in the capacity of \_\_\_\_\_ *[insert title or other appropriate designation]* In the presence of \_\_\_\_\_

\_\_\_\_\_ *[insert identification of official witness]* **For and on behalf of the Supplier**

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

**PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee]**

*[Guarantor letterhead]*

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

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

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

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

---

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

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

**PERFORMANCE SECURITY [Option 2– Performance Bond]**

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

[Guarantor letterhead or SWIFT identifier code]

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

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

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

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

1. By this Bond \_\_\_\_\_ as Principal (hereinafter called “the Contractor”) and \_\_\_\_\_] as Surety (hereinafter called “the Surety”), are held and firmly bound unto \_\_\_\_\_] as Oblige (hereinafter called “the Employer”) in the amount of \_\_\_\_\_ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Employer dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, for \_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent therein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:
  - 1) complete the Contract in accordance with its terms and conditions; or
  - 2) obtain a tender or tenders from qualified tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
  - 3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative,  
this day \_\_\_\_\_ of \_\_\_\_\_ 20\_\_\_\_\_.

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

**ADVANCE PAYMENT SECURITY [Demand Bank Guarantee]**

*[Guarantor letterhead]*

**Beneficiary:**

*name and Address of Employer]*

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

*[Insert*

**ADVANCE PAYMENT GUARANTEE No.:**

*[Insert guarantee  
referencenumber]*

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

1. We have been informed that \_\_\_\_\_ (hereinafter called "the Contractor") has entered into  
Contract No. \_\_\_\_\_  
dated \_\_\_\_\_

with \_\_\_\_\_ the Beneficiary, for the execution of \_\_\_\_\_ (hereinafter called "the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_ (*in words* \_\_\_\_\_) is to be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (*in words* \_\_\_\_\_) 'upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
- (a) has used the advance payment for purposes other than the costs of mobilization in respect of the goods; or
- (b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which

the Applicant has failed to repay.

4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number \_\_\_\_\_ at -----.
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the \_\_\_\_ day of \_\_\_\_\_, 2<sup>nd</sup>,<sup>2</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[oneyear]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

---

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

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

---

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

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

## **8 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

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)
1.	Full Name		Directly-----	Directly.....	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		- ----- % of shares	.....% of voting rights  Indirectly----- -- % of voting rights		
	Personal Identification Number (where applicable)		Indirectly--- - ----- % of shares			
	Nationality					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
	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	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer)



					<b>the Tenderer</b> (Yes / No)	<b>(Yes / No)</b>
<b>2.</b>	Full Name		Directly-----	Directly.....	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. Exercise 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		- ----- % of shares	.....% of voting rights		
	Personal Identification Number (where applicable)		Indirectly---	Indirectly-----		
	Nationality(ies)		- ----- % of shares	-- % of voting rights		
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
<b>3.</b>  <b>e.t</b> <b>.c</b>						

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