
KEMSA

KENYA MEDICAL SUPPLIES AUTHORITY



YOUR PARTNER IN HEALTHCARE

OPEN TENDER

Tender Document

For

Supply and Installation of Servers

Invitation for Tender (IFT) Number:

KEMSA-ONT15-2021/2022

Tender Closing date: Wednesday 27th April, 2022
Time: 10.00 AM

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Section A: Invitation for Tenders

Date: 12th April, 2022

Invitation for Tenders (IFT)

Tender Reg. No. KEMSA-ONT15-2021/2022

For Supply and Installation of Servers

The Kenya Medical Supplies Authority (KEMSA) is a State Corporation established with the mandate to procure, warehouse and distribute medical commodities to all public health facilities in Kenya. KEMSA now invites sealed bids from eligible bidders for Supply and Installation of Servers

1. Bidding will be conducted through the procedures specified in the Public Procurement and Asset Disposal Act (PPADA) 2015 and restricted to invited bidders.
2. You are hereby invited to submit a bid for **Supply and Installation of Servers**
3. Completed serialized/paginated bidding documents **one original and a copy** in plain sealed envelopes clearly marked on top with the Tender Number and Description and must be addressed to below:

Ag. Chief Executive Officer
Kenya Medical Supplies Authority
13 Commercial Street, Industrial Area
P. O. Box 47715 Nairobi, Kenya
Tel: 254 20 3922000/537670/1/2/3
Email: procure@kemsaco.ke

4. The bid document should be deposited in the Tender Box No. 1 marked GOK/World Bank at the Reception area on the Ground Floor KEMSA's Commercial Street Office in Nairobi on or before **10.00 am on 27th April, 2022**.
5. Bids will be opened promptly in public and in the presence of Bidders and their representatives who choose to attend in the opening at **KEMSA bids' opening conference Hall at 10:00am**
6. **Late bids, Electronic Bids, Bids not opened in and not read out in public at the bid opening ceremony shall not be accepted for evaluation.**

REGISTRATION FORM

Tender No. KEMSA/ONT15/2021-2022- **Supply and Installation of Servers**

NOTE: Please provide your details below for purposes of communication in case you download this tender document from PPIP or KEMSA website.

Name of the firm:.....

Postal Address:.....

Telephone Contacts:.....

Company email address:.....

Contact Person:.....

Once completed please submit this form to the email below;

procure@kemsaco.ke

SECTION B: INSTRUCTIONS TO TENDERERS

1.1. Eligible Tenderers

1.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.

1.1.2 The procuring entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.

1.1.3 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 for tenders.

1.1.4 Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

1.2 Cost of Tendering

1.2.1 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

1.2.2 The tender document is issued free of charge

1.2.3 The procuring entity shall allow the prospective tenderer to review the tender document free of charge before purchase.

1.3 Contents of Tender Document

1.3.1 The tender documents comprise the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenderers.

- i) Instructions to Tenderers
- ii) General Conditions of Contract
- iii) Special Conditions of Contract
- iv) Schedule of Requirements
- v) Evaluation criteria
- vi) Form of Tender
- vii) Price Schedules
- viii) Contract Form
- ix) Confidential Business Questionnaire Form
- x) Performance security Form

1.3.2 The Tenderer is expected to examine all instructions, forms, terms and specification 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.

1.4 Clarification of Tender Documents

2.4.1 A Candidate making inquiries of the tender documents may notify the Procuring entity by post, fax or by email at the procuring 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 not later than five (5) days prior to the deadline for the submission of the 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 candidates who have received the tender documents.

1.4.2 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.

1.5 Amendment of Tender Documents

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

1.5.2 All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.

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

1.6 Language of Tenders

1.6.1 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.

1.7. Documents Comprising the Tender

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

(a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.10 below

(b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;

(c) Tender security furnished in accordance with paragraph 2.12 (if applicable)

1.8. Form of Tender

1.8.1 The tenderer shall complete the Tender Form and the Price Schedule furnished in the tender documents, indicating the services to be provided.

1.9. Tender Prices

1.9.1 The tenderer shall indicate on the form of tender and the appropriate Price Schedule the unit prices and total tender price of the services it proposes to provide under the contract.

1.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable.

1.9.3 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 nonresponsive and will be rejected, pursuant to paragraph 2.20.5

1.10. Tender Currencies

2.10.1 Prices shall be quoted in Kenya Shillings

1.11. Tenderers Eligibility and Qualifications

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

1.11.2 The documentary evidence of the tenderer's 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.

1.12. Validity of Tenders

1.12.1 Tenders shall remain valid for 90 days after date of tender opening pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

1.12.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer granting the request will not be required nor permitted to modify its tender.

1.13. Format and Signing of Tenders

1.13.1 The tenderer shall prepare an original and a copy of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

1.13.2 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 un-amended printed literature, shall be initialed by the person or persons signing the tender.

1.13.3 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.

1.14 Sealing and Marking of Tenders

1.14.1 The tenderer shall seal the original and the copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL TENDER" and "COPY OF TENDER". The envelopes shall then be sealed in an outer envelope.

1.14.2 The inner and outer envelopes shall:

- (a) be addressed to the Procuring entity at the address given in the Invitation to Tender.
- (b) bear tender number and name in the invitation to tender and the words, "DO NOT OPEN BEFORE **Wednesday 27th April, 2022 at 10.00 am**)

1.14.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".

1.14.4 If the outer envelope is not sealed and marked as required by paragraph 2.14.2, the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.

1.15. Deadline for Submission of Tenders

1.15.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 not later than **(Wednesday 27th April, 2022 at 10.00 am)**

1.15.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.5.3 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.

1.15.3 Bulky tenders which will not fit the tender box shall be received by the procuring entity as provided for in the appendix.

1.16. Modification and Withdrawal of Tenders

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

1.16.2 The tenderer's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of paragraph 2.16. a withdrawal notice may also be sent by fax or email but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

1.16.4 No tender may be withdrawn in the interval between the deadlines for submission of tenders and the expiration of the period of tender validity. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

1.17. Opening of Tenders

1.17.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, on **Wednesday 27th April, 2022 at 10.00 am)** and in the location specified in the invitation for tenders. The tenderers' representatives who are present shall sign a register evidencing their attendance

1.17.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the

Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.

1.17.3 The Procuring entity will prepare minutes of the tender opening, which will be submitted to tenderers that signed the tender opening register and will have made the request.

1.18 Clarification of Tenders

1.19.1 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 of the tender shall be sought, offered, or permitted.

1.18.2 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.

1.19 Preliminary Examination and Responsiveness

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

1.19.2 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, and its tender security forfeited. If there is a discrepancy between words and figures, the amount in words will prevail

1.19.3 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.

1.19.4 Prior to the detailed evaluation, pursuant to paragraph 2.20, 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.

1.19.5 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.

1.20. Conversion to single currency

1.21.1 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.

1.21. Evaluation and Comparison of Tenders

2.21.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 1.20

1.21.2 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 2.21.3.

- (a) operational plan proposed in the tender;
- (b) deviations in payment schedule from that specified in the Special Conditions of Contract

1.21.3 Pursuant to paragraph 2.21.2. the following evaluation methods will be applied.

(a) Operational Plan

(i) 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 have required delivery time will be treated as non-responsive and rejected.

(b) Deviation in payment schedule

(i) Tenderers shall state their tender price for the payment on 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.

1.22.4 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

1.23. Contacting the Procuring entity

1.23.1 Subject to paragraph 2.19 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.

1.23.2 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.

1.24 post-qualification

1.24.1 The Procuring entity will verify and 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.

1.24.2 The determination will take into account the tenderer 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 1.11.2, as well as such other information as the Procuring entity deems necessary and appropriate

1.24.3 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.

1.25 Award Criteria

1.25.1 Subject to paragraph 2.29 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.

1.25.2 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.

1.26. Procuring entity's Right to accept or Reject any or all Tenders

1.26.1 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers.

If the Procuring entity determines that none of the tenders is responsive, the Procuring entity shall notify each tenderer who submitted a tender.

1.26.2 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.

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

1.27 Notification of Award

1.27.1 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.

1.27.2 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 2.9. Simultaneously the other tenderers shall be notified that their tenders were not successful.

1.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29 the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 1.12

1.28 Signing of Contract

1.28.1 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.

1.28.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

1.28.3 The contract will be definitive upon its signature by the two parties.

1.28.4 The parties to the contract shall have it signed within twenty-one (21) days from the date of notification of contract award unless there is an administrative review request.

1.29 Performance Security

1.29.1 The successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in a form acceptable to the Procuring entity.

1.29.2 Failure by the successful tenderer to comply with the requirement of paragraph 1.29 or paragraph 1.30.1 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 tender or call for new tenders.

1.30 Corrupt or Fraudulent Practices

1.30.1 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.

1.30.2 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

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

Appendix to Instructions to Tenderers

Notes on the Appendix to the Instruction to Tenderers

1. The Appendix to instructions to tenderers is intended to assist the procuring entity in providing specific information in relation to corresponding clause in the instructions to Tenderers included in Section II and has to be prepared for each specific procurement.
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the procuring of the procurement, and the tender evaluation criteria that will apply to the tenders.
3. In preparing the Appendix the following aspects should be taken into consideration;
 - (a) The information that specifies and complements provisions of Section II to be incorporated.
 - (b) Amendments and/or supplements if any, to provisions of Section II as necessitated by the circumstances of the specific procurement to be also incorporated.
4. Section II should remain unchanged and can only be amended through the Appendix to instructions to tenders.
5. Any clause to be included in the appendix to instructions to tenderers must be consistent with the applicable public procurement law and regulations.

Section C: General Information

Introduction

1. Eligible Tenderers

- 1.1 This Invitation for Tenders is open to all tenderers eligible as described in the tender documents. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 1.2 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, in this KEMSA, 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 for tenders.

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

2. Cost of Tendering

The Tenderer shall bear all costs associated with the preparation and submission of their tender for this service, 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.

The Tender Document

3. Contents

- 3.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 4 of these instructions to tenders.

- (a) Invitation for Tenders
- (b) General information
- (c) General Conditions of Contract
- (d) Special Conditions of Contract
- (e) Tender Form and Price Schedules
- (f) Tender Security Form
- (g) Contract Form
- (h) Underwriter's authorisation form

- 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 tenderer's risk and may result in the rejection of its tender.

4. Clarification of Documents

A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by cable (hereinafter, the term *cable* is deemed to include telex and facsimile) 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 document.

5. Amendment of Documents

- 5.1 At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.
- 5.2 All prospective candidates who have received the tender documents will be notified of the amendment in writing or by cable, and such amendment will be binding on them.
- 5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

Preparation of Tenders

6. Language of Tender

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, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

Documents Comprising the Tender

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

- (a) Tender Form and a Price Schedule completed in accordance with paragraph 8, 9 and 10 below
- (b) documentary evidence established in accordance with paragraph 11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (d) tender security furnished is in accordance with paragraph 12

7. Tender Form

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

8. Tender Prices

- The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the services it proposes to provide under the contract.
- Prices indicated on the Price Schedule shall be the cost of the services quoted including all taxes payable:
- Prices quoted by the tenderer shall be fixed during the Term of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 22.

9. Tender Currencies

Prices shall be quoted in Kenya Shillings.

10. Tenderers Eligibility and Qualifications.

- Pursuant to paragraph 1 of section C, 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.
- 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 as outlined in the evaluation criterion below;

11. Tender Security

- 12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Invitation to tender.
- 12.2 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 12.7
- 12.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.
- 12.4 Any tender not secured in accordance with paragraph 12.1 and 12.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 22.
- 12.5 Unsuccessful Tenderers' tender security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.
- 12.6 The successful Tenderers' tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 30, and furnishing the performance security, pursuant to paragraph 31.
- 12.7 The tender security may be forfeited:
13. if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
14. in the case of a successful tenderer, if the tenderer fails:
- (i) to sign the contract in accordance with paragraph 30, **or**
 - (ii) to furnish performance security in accordance with paragraph 31

13. Validity of Tenders

- 13.1 Tenders shall remain valid for 120 days or as specified in the tender documents after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

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. The tender security provided under paragraph 14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

14. **Format and Signing of Tender**

- The tenderer shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.
- The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialled by the person or persons signing the tender.
- The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialled by the person or persons signing the tender.

Submission of Tenders

15. **Sealing and Marking of Tenders**

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.

15.2 The inner and outer envelopes shall:

- (a) Be addressed to the Procuring entity at the following address:

**The Chief Executive Officer
Kenya Medical Supplies Authority
Commercial Street
P.O Box 47715 00100
Nairobi.**

15.3 Bear, **KEMSA-ONT15-2021/2022**, the Invitation for Tenders (IFT) and the words: **“DO NOT OPEN BEFORE 10.00 a.m. on Wednesday 27th April, 2022**

The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

15.4 If the outer envelope is not sealed and marked as required by paragraph 15.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

16. Deadline for Submission of Tenders

16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 15.2 no later than **10.00 a.m. on Wednesday 27th April, 2022**

16.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, 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.

17. Modification and Withdrawal of Tenders

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 tenders, is received by the Procuring prior to the deadline prescribed for submission of tenders.

17.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

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. Withdrawal of a tender during this interval may result in the Tenderer’s forfeiture of its tender security, pursuant to paragraph 12.7.

Opening and Evaluation of Tenders

18. Opening of Tenders

- (b) The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **10.00 a.m. Local Time on Wednesday 27th April, 2022** at the **KEMSA Tender Opening Hall, Commercial Street, Nairobi.**

- 18.1 The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 18.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.
- 18.3 The Procuring entity will prepare minutes of the tender opening.

19. Clarification of Tenders

- 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 of the tender shall be sought, offered, or permitted.
- 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.

20. Preliminary Examination

- 20.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 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, and its tender security may be forfeited.

- If there is a discrepancy between words and figures, the amount in words will prevail.
- 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.
- 20.4 Prior to the detailed evaluation, pursuant to paragraph 21, 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.
- 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.

21. Evaluation and Comparison of Tenders

- 21.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 20.
- 21.2 The comparison shall be of the price to including all costs, as well as duties and taxes payable on all the materials to be used in the provision of the services.
- 21.3 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 21.4 and in the technical specifications:
- (a) operational plan proposed in the tender;
 - (b) deviations in payment schedule from that specified in the Special Conditions of Contract;
- 21.4 Pursuant to paragraph 23.3 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 as required. Tenders that do not comply with this requirement 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.

22. Contacting the Procuring entity

- 22.1 Subject to paragraph 19, 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.
- 22.2 Any effort by a tenderer to influence the Procuring entity in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

Award of Contract

23. Post-qualification

- 23.1 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.
- 23.2 The determination will take into account the tenderer 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 11, as well as such other information as the Procuring entity deems necessary and appropriate.
- 23.3 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.

24. Award Criteria

Subject to paragraph 9, 21 and 26 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.

25. Procuring entity's Right to Vary scope of services

The Procuring entity reserves the right at the time of contract award to increase or decrease the scope of services originally specified in the Schedule of requirements without any change in unit price or other terms and conditions.

26. Procuring entity's Right to Accept or Reject Any or All Tenders

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.

27. Notification of Award

27.1 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.

27.2 The notification of award will constitute the formation of the Contract.

27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 29, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 12.

28. Signing of Contract

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

28.2 Within twenty-one (21) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

29. Performance Security

- 29.1 Within twenty-one (21) 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.
- 29.2 Failure of the successful tenderer to comply with the requirement of paragraph 28 or paragraph 29 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

30. Corrupt Fraudulent Practices

- 30.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, the Procuring entity: -
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i). “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
 - (ii). “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;
 - (b) 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;
 - (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract
- 30.2 Furthermore, tenderers shall be aware of the provision stated in the General Conditions of Contract.

Section D: General Conditions of Contract

1. Definitions

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

- (a) "The Contract" means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- (c) "The services" means services to be provided by the tenderer to the Procuring entity under the Contract.
- (d) "The Procuring entity" means the organization sourcing for the services under this Contract, in this case Kenya Medical Supplies Authority (KEMSA).
- (e) "The tenderer" means the individual or firm providing the services under this Contract.

2. Application

2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement of services.

4. Standards

4.1 The services provided under this Contract shall conform to the standards mentioned in the Technical Specifications.

5. Use of Contract Documents and Information

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

5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 5.1 above.

- 5.3 Any document, other than the Contract itself, enumerated in paragraph 5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity.

6. Patent Rights

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

Performance Security

- 7.1 Within twenty-one (21) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.
- 7.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the tender documents.
- 7.4 The performance security will be discharged by the Procuring entity and returned to the Candidate not later than twenty-one (21) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

7. Payment

- The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract.
- Payments shall be made promptly by the Procuring entity as specified in the contract.

8. Prices

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

9. 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.

10. Subcontracts

The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract.

11. Termination for Default

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

- (a) if the tenderer fails to 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 or in executing the Contract

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

12. Liquidated Damages

If the tenderer fails to provide any or all of the services within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the price of the unperformed services up to a maximum deduction of 10% of the unperformed services. After this the procuring entity may consider termination of the contract.

13. Resolution of Disputes

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

- 15.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute the provisions of the Arbitration Act of the Laws of Kenya shall apply.

14. Language and Law

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

15. Force Majeure

The tenderer shall not be liable for forfeiture of its performance security, or 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.

Section E: Special Conditions of Contract

Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract.

1. Clarification of Documents

The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than five (5) days prior to the deadline for the submission of tenders.

2. Bidders Eligibility

The documentary evidence of the Bidders eligibility to tender shall include **proof of tax compliance** from the relevant tax authorities.

3. Validity of Tenders

Tenders shall remain valid for 120 days.

4. Prices to be quoted in Kenya Shillings.

5. Each tenderer must attach to the tender document a copy of official receipt issued from the cash office for the purchase of tender document.

6. The documentary evidence of the tenderers eligibility to tender shall include proof of tax compliance from the relevant tax authorities.

7. Provision of the company profile including names of directors and senior managers.

8. Complete set of audited financial statements for the last three years.
9. Provide references of other organisations to which you render similar services.
10. Indicate the number of years the company has been in business.

Section G: Tender Form and Price Schedules

(i). Sample Form of Tender

Date: _____

Tender No:

To:

.....

[name and address of Procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver.....

[description of services]

in conformity with the said tender documents and or such other sums as may be ascertained in accordance with the Schedule of rates and prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver the services in accordance with our specifications.

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

4. 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.

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

Dated this _____ day of _____ 20_____.

.....
[signature]

.....
[in the capacity of]

Duly authorized to sign tender for and on behalf of.....

(ii). Sample of Schedule of Requirements**Server Technical Specifications (Quantity 2)**

	Technical specifications	YES/NO
Processor family	Intel Xeon-Gold 6200 series (2.9GHz/16-core/150W)	
Processor Number	2	
Processor speed	(2.9GHz/16-core/150W)	
Power supply type	2 Flexible Slot Power Supplies, maximum depending on model	
Memory Expansion slots	2 or higher	
Maximum memory	(4x32GB) DDR4	
Storage	12 TB SAS 12G	
Network controller	1 Gb Ethernet adapter 4-ports per controller	
Storage controller	Smart Array P408i-a 12G SAS Modular Controller	
Power supply	500W Power Supply Kit	
Infrastructure management	Standard with Intelligent Provisioning (embedded)	
Warranty	3yrs Server Warranty	
	server License with 3yr Support	
Form factor	2U Rack Rackmount Kit	
Operating System	Ubuntu Enterprise Server	
Screen	24" Monitor	
Mouse	Wired Mouse	
Keyboard	Wired Keyboard	

SCHEDULE - Supply and Installation of Servers

IFT Number: KEMSA-ONT15-2021/2022

		TENDER REG NO: KEMSA-ONT15-2021/2022 For official use only		KENYA MEDICAL SUPPLIES AUTHORITY P. O. BOX 47715, 00100, NAIROBI TEL: 254-20-3922000 FAX: 254 20 3922400 E-MAIL: info@kemsa.co.ke Single Bids are allowed					
		Date of tender notice:	12 th April, 2022						
		Closing date:	27 th April, 2022						
		Time:	10.00AM						
NAME OF FIRM QUOTING:									
Address:									
Phone, fax, e-mail:									
Item	Item Description	Quantity	Unit Price KEMSA Delivered	Net Total Price	Brand	manufacturer	Country of origin	Delivery period	Remarks
1	Supply, deliver to site, install, test and commission of Servers	2							
	Total cost								
NAME		Company Seal							
Signature								
Date:								
Currency								

--	--

Section H: Sample Tender Security Form

IFT No.: _____

Supply and delivery of _____

To: Kenya Medical Supplies Authority

WHEREAS [*insert: name of Tenderer*] (hereinafter called "the Tenderer") has submitted its tender dated [*insert: date of tender*] for the performance of the above-named Contract (hereinafter called "the Tender")

KNOW ALL PERSONS by these present that WE [*insert: name of bank*] of [*insert: address of bank*] (hereinafter called "the Bank") are bound unto [*insert: name of Purchaser*] (hereinafter called "the Purchaser") in the sum of: [*insert: amount*], for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this [*insert: number*] day of [*insert: month*], [*insert: year*].

THE CONDITIONS of this obligation are:

- (a) If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers or
 2. If the tenderer rejects the correction of an error upon prompt notice by the procuring entity and
 3. If the tenderer, having been notified of the acceptance of his tender by the employer during the period of tender validity:
 - (a) Fails or refuses to execute the form of agreement in accordance with the instructions to tenderers if required or
 - (b) Fails or refuses to furnish the Performance Security, in accordance with instructions to tenderers

We undertake to pay to the Procuring Entity up to the above amount upon receipt of its first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions specifying the occurred condition or conditions. This guarantee will remain in full force up to and including thirty (30) days after the period of tender validity and any demand in respect thereof should reach the Guarantor not later than the above date.

Date:

Signature of the Guarantor

(Witness)

(Seal)

Insurance Tender Security Form

IFT No.: -----

Supply and delivery of -----

To: Kenya Medical Supplies Authority

WHEREAS [*insert: name of Tenderer*] (hereinafter called "the Tenderer") has submitted its tender dated [*insert: date of tender*] for the performance of the above-named Contract (hereinafter called "the Tender")

KNOW ALL PERSONS by these present that WE [*insert: name of the insurance company*] of [*insert: address of insurance company*] (hereinafter called "the Guarantor") are bound unto [*insert: name of Purchaser*] (hereinafter called "the Purchaser") in the sum of: [*insert: amount*], for which payment well and truly to be made to the said Purchaser, the guarantor binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this [*insert: number*] day of [*insert: month*], [*insert: year*].

THE CONDITIONS of this obligation are:

- (b) If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers or
 - 2. If the tenderer rejects the correction of an error upon prompt notice by the procuring entity and
 - 3. If the tenderer, having been notified of the acceptance of his tender by the employer during the period of tender validity:
 - (a) Fails or refuses to execute the form of agreement in accordance with the instructions to tenderers if required or
 - (b) Fails or refuses to furnish the Performance Security, in accordance with instructions to tenderers

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

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

Date:

Signature of the Guarantor

(Witness)

(Seal)

Section I: Sample 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 procurement of spare parts for machine model MP 2501SP, MP 5002, MP 2501, MP 5002SP, MPC 4504EX, MP 2852 and MP 5055 on the basis of the rates specified on the appended schedules (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred 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 General Conditions of Contract;
 - (c) the Special Conditions of Contract; and
 - (d) the Procuring entity's Notification of Award
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 services 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 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.

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 _____

Section J: Performance Security Bank Guarantee (unconditional)

IFT No.: -----

Supply and delivery of -----

To: Kenya, Medical Supplies Authority (KEMSA).

Dear Sir or Madam:

We refer to the Contract Agreement ("the Contract") signed on [*insert: date*] between you and [*insert: name of Tenderer*] ("the Supplier") concerning the supply and delivery of [*insert: a brief description of the Goods*]. By this letter we, the undersigned, [*insert: name of bank*], a bank (or company) organized under the laws of [*insert: country of bank*] and having its registered/principal office at [*insert: address of bank*], (hereinafter, "the Bank") do hereby jointly and severally with the Tenderer irrevocably guarantee payment owed to you by the Tenderer, pursuant to the Contract, up to the sum of [*insert: amount in numbers and words*]. This guarantee shall be reduced or expire as provided for by GCC Sub-Clause 8.4.

We undertake to make payment under this Letter of Guarantee upon receipt by us of your first written demand signed by your duly authorized officer declaring the Tenderer to be in default under the Contract and without cavil or argument any sum or sums within the above-named limits, without your need to prove or show grounds or reasons for your demand and without the right of the Tenderer to dispute or question such demand. Our liability under this Letter of Guarantee shall be to pay to you whichever is the lesser of the sum so requested or the amount then guaranteed under this Letter in respect of any demand duly made under this Letter prior to expiry of this Letter of Guarantee, without being entitled to inquire whether or not this payment is lawfully demanded.

This Letter of Guarantee shall be valid from the date of issue until the date of expiration of the guarantee, as governed by the Contract. Except for the documents herein specified, no other documents or other action shall be required, notwithstanding any applicable law or regulation. Our liability under this Letter of Guarantee shall become null and void immediately upon its expiry, whether it is returned or not, and no claim may be made under this Letter after such expiry or after the aggregate of the sums paid by us to you shall equal the sums guaranteed under this Letter, whichever is the earlier. All notices to be given under this Letter shall be given by registered (airmail) post to the addressee at the address herein set out or as otherwise advised by and between the parties hereto.

We hereby agree that any part of the Contract may be amended, renewed, extended, modified, compromised, released, or discharged by mutual agreement between you and the Tenderer, and this security may be exchanged or surrendered without in any way impairing or affecting our liabilities hereunder without notice to us and without the necessity for any additional endorsement, consent, or guarantee by us, provided, however, that the sum guaranteed shall not be increased or decreased.

No action, event, or condition that by any applicable law should operate to discharge us from liability hereunder shall have any effect, and we hereby waive any right we may have to apply such law, so that in all respects our liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

For and on behalf of the Bank

Signed: _____

Date: _____

in the capacity of: [*insert: title or other appropriate designation*]

Common Seal of the Bank

SECTION K: DECLARATION OF UNDERTAKING

ANNEX I

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

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

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

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

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

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

5. **THAT** what is deponed to hereinabove is true to the best of my knowledge information and
belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

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

I....., of Post

Office Box.....being a resident

of..... in the Republic of

..... Do hereby make a statement as follows;

1. **THAT** I am the Company Secretary/ Chief Executive/ Managing Director/ Principal Officer/Director of.....(*insert name of the company*) who is a Bidder in respect of Tender No.....(*insert tender title/description*) for.....(*insert name of Procuring Entity*) and duly authorized and competent to make this statement.
2. **THAT** the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. **THAT** what is deponed to hereinabove is true to the best of my knowledge, information and belief.

.....

(Title)

(Signature)

(Date)

Bidder Official Stamp

SECTION I: CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

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

Part _____ General:

Business Name

Location of business premises

Plot No. Street/Road

Postal Address Tel. No.Fax Email.....

Nature of business

Registration Certificate No.

Maximum value of business which you can handle at any one time Kshs.

Name of your bankers Branch

Part 2(a) – Sole Proprietor:

Your name in full Age

Nationality Country of origin

Citizenship details.....

Party 2(b) – Partnership

Give details of partners as follows

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

Part 2(c) – Registered Company:

Private or public

State the nominal and issued capital of the company –

Nominal Kshs... ..

Issued Kshs.....

Give details of all directors as follows

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

Date..... Signature of Tenderer

If a citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration

PART II: PERSONNEL

Please enclose copy of the organization chart of the firm indicating the positions as they relate to this Tender.

Please provide the following information for the key personnel proposed for administration of this Contract.

1. Name.....
2. Age.....
3. Academic Qualification.....
4. Professional Qualification.....
5. Work Experience.....
6. Length of service with the firm and position held.....
7. Any other relevant details.....

PART III: FINANCIAL/COMMERCIAL INFORMATION

1. Attach a copy of firm’s two most recent audited financial statements
2. Summary of quick assets and current liabilities as of...../20.....(Date)

Assets.....

- a) Cash in hand
- b) Cash Deposited in Banks (State Details Below)

.....

Total Cash.....

Name of Bank Institution	Location	Deposit in Name of	Amount
i.			
ii.			
iii.			
iv.			

Liabilities.....

3. Deposit with Bids or as guarantees (State details)

.....

Deposited With	Name & Address	Purpose	Date of Recovery	Amount
i.				
ii.				
iii.				
iv.				

4. Due from completed contracts

(Amount receivable within 90 days, exclude claims not approved)

.....

Name and address of Owner	Contract Sum	Amount Receivable
i.		
ii.		
iii.		
iv.		

Attach Letters of Reference from the firm's bankers regarding the firm's credit position

5. Volume of business transacted between the Government of the Republic of Kenya and my company during the last 12 months, if any KShs.....
6. Volume of business transacted with other parastatal organizations during the last 12 months, if any, KShs.....
7. Work performed as a Service Provider of similar nature and volume over the last five years. List details of contracts under way or committed, including expected expiry dates.

Client Name	Name of Client Contact Person	Type of services provided and year of completion	Value of Contract

8. Please indicate the payment terms and/ or incentives you are willing to offer to the Kenya Medical Supplies Authority, including but not limited to payment incentives

9. State whether or not you have experienced any problem(s) of non- performance with any contract(s) awarded to you during the last 12 months and give a brief explanation/ description of the problem(s). Please give the information on a separate sheet of paper.

PART IV: TENDERER'S REFERENCES**NAME OF TENDERER'S OTHER CLIENTS AND VALUES OF CONTRACT/ORDERS IN LAST TWELVE MONTHS****1. First Client (Organization)**

- i) Name of 1st client (Organization).....
- ii) Address of Client (Organization).....
- iii) Telephone No. of Client.....
- iv) Facsimile No of Client.....
- v) E-mail Address of Client.....
- vi) Name of Contact Person at the Client (Organization).....
- vii) Value of Contracts/Orders.....
- viii)Duration of ongoing Contracts/Orders.....

2. Second Client (Organization)

- i) Name of 2nd client (Organization).....
- ii) Address of Client (Organization).....
- iii) Telephone No. of Client.....
- iv) Facsimile No of Client.....
- v) E-mail Address of Client.....
- vi) Name of Contact Person at the Client (Organization).....
- vii) Value of Contracts/Orders.....
- viii)Duration of ongoing Contracts/Orders.....

3. Third Client (organization)

- i) Name of 3rd client (Organization).....
- ii) Address of Client (Organization).....
- iii) Telephone No. of Client.....
- iv) Facsimile No of Client.....
- v) E-mail Address of Client.....
- vi) Name of Contact Person at the Client (Organization).....
- vii) Value of Contracts/Orders.....
- viii)Duration of ongoing Contracts/Orders.....

4. Fourth Client (Organisation)

- i) Name of 4th client (Organization).....
- ii) Address of Client (Organization).....
- iii) Telephone No. of Client.....
- iv) Facsimile No of Client.....
- v) E-mail Address of Client.....
- vi) Name of Contact Person at the Client (Organization).....
- vii) Value of Contracts/Orders.....
- viii)Duration of ongoing Contracts/Orders.....

5. Fifth Client (organization)

- i) Name of 5th client (Organization).....
- ii) Address of Client (Organization).....
- iii) Telephone No. of Client.....
- iv) Facsimile No of Client.....
- v) E-mail Address of Client.....
- vi) Name of Contact Person at the Client (Organization).....
- vii) Value of Contracts/Orders.....
- viii)Duration of ongoing Contracts/Orders.....

(NB: You may include additional clients as you may wish to support your application)

PART V: Tender Questionnaire

1. Please fill in Block letters

2. Full Name of Tenderer:

.....

3. Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)

.....

4. Telephone number (s) of Tenderer

.....

5. E-mail of Tenderer

.....

6. Name of Tenderer's representative to be contacted on matters of the tender during the tender period.
-

7. Details of Tenderer's nominated agent, if any, to receive tender notices. This is essential of the tenderer does not have his registered address in Kenya.

Name:	
Address:	
Telephone:	
Fax:	
E-Mail Address:	

.....
Signature of Tenderer

PART VI: Confidential Business Questionnaire

You are requested to give particulars indicated in Part1 and either Part 2(a), 2(b) or 2(c) whichever applies to your type of business.

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

Part 1-General

Business Name.....

Registration Ref No.....

Location of business premises, i.e. Building.....

Floor No.....Room No.....

Plot No.....Street/Road.....

Postal Address.....Postal Code.....

Tel No..... Fax No.....

Email.....Website.....

Nature of business.....

Current Trade License No.Expiry Date.....

VAT Certificate Number.....PIN Certificate No.....

Local Authority License No.....Expiry Date.....

NB: Attach copies of Registration Certificate, VAT Registration Certificate, PIN Certificate , Local Authority License and a **Valid Tax Compliance Certificate.**

Maximum Value of business which you can handle at any one time KShs.....

Name of your main Bankers.....

Branch.....

Part 2 (a) Sole Proprietor:

My Name in full.....Age.....
 Nationality.....ID/Passport No.....Country of Origin.....

Part 2(b) Partnership

Name	Nationality	*Citizenship Details	shares
1.....			
2.....			
3.....			
4.....			
5.....			

Part 2(c) Registered Company

State whether Private or Public.....

State the nominal and issued Capital of the Company

Nominal Kshs..... Or Other Convertible currency.....

Issued KShs..... Or Other Convertible currency.....

Give Details of all Directors as follows:

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

Part 3- Names of all Associated or Holding Companies (If any)

1.....
 2.....
 3.....
 4.....
 5.....

If more companies are applicable, please give the information on a separate sheet of paper.

Part 4 - Give Details of all Directors of the Companies you have listed above as follows:-

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

*If Kenyan Citizen, indicate under "Citizenship Details", whether by Birth, Naturalization or Registration.

DECLARATION

Give Statement of compliance with the requirements of clause 1.2 of the General instructions to Tenderers under section C.

I certify that all the above particulars are true

Name of Applicant (Officer).....

Signature of Applicant.....

Position in the Company/Title.....

Date.....

NB: Please affix rubber stamp or seal

SECTION M: EVALUATION CRITERIA**A. PRELIMINARY EVALUATION CRITERIA****MANDATORY REQUIREMENTS**

No	Requirements	YES/NO
MR 1	Must Provide a company's certificate of incorporation/Registration (MANDATORY)	
MR 2	Must Provide a valid Tax Compliance Certificate (MANDATORY)	
MR 3	Original Bid Bond provided and valid for 120 days from date of tender opening. Bid bond should be Ksh 113,935.20 from a reputable bank or an insurance company approved by Public Procurement Regulatory Authority (PPRA) . (MANDATORY)	
MR 4	Bidding documents must be paginated/serialized. All bidders are required to submit their documents paginated in a continuous ascending order from the first page to the last in this format; (i.e., 1, 2, 3..... n where n is the last page) (MANDATORY)	
MR 5	Tender form (on a letterhead showing the tenderers complete name and business address) duly completed and signed . <i>The Form of Tender shall include the following Forms duly completed and signed by the Tenderer or authorized representative (attach power of attorney where applicable)</i> <i>i. Tenderer's Eligibility-Confidential Business Questionnaire (MANDATORY).</i> <i>ii. Certificate of Independent Tender Determination</i> <i>iii. Self-Declaration of the Tenderer</i> (a) Duly completed and signed self-Declaration that the person/tenderer is not debarred in the matter of the PPADA 2015 (b) Duly completed and signed self-Declaration that the person/Tenderer will not engage in any corrupt/fraudulent practice (c) Duly completed and signed declaration and commitment to the code of ethics	
MR 6	Product Brochure containing details and Images of the products. (MANDATORY)	
MR 7	Bidders MUST provide a duly signed and stamped Manufacturer's authorization form/Letter - (To be validated with the respective manufacturer local office) (MANDATORY)	

NOTE: Failure to comply with Mandatory requirements will lead to disqualification.

B. TECHNICAL EVALUATION

EVALUATION CRITERIA	MAXIMUM POSSIBLE SCORE
TECHNICAL COMPETENCY	
Number of years the firms has been in existence doing to similar services/assignment <ul style="list-style-type: none"> i. in existence for 10 yrs. and above -10mks ii. in existence for 5 years and above -5mks iii. in existence 2 years and above -2mks iv. less than 2yrs -0mk 	10
The supplier must provide proof of similar work (provide LPO or contracts) (To be verified):- <ul style="list-style-type: none"> i. Three (3) similar jobs done -15mks ii. Two (2) similar jobs done -10mks iii. One (1) similar jobs done -5mks 	15
Professional profile of one (1) Qualified Technical Engineer Please include CV, technical certifications and years of experience <ul style="list-style-type: none"> i. Technical Certification/s– 10mks ii. CV of technical Engineer– 5mks 	15
TOTAL TECHNICAL SCORE	40

NB: Pass mark 80%

Part two of technical evaluation will involve examination of specifications on the product brochure against the technical specifications spelt out in the tender document to confirm conformity. The evaluation will be on a “Yes/No” basis;

NOTE: Only bidders who are successful at this stage will proceed to Financial Evaluation.

C. FINANCIAL EVALUATION

Bidders who are successful at preceding stages of evaluation will have their prices compared and award recommended to the lowest evaluated responsive bid.