



**TENDER NO. KP1/9A.2/OT/050/ADMIN/23-24**

**PROPOSED LEASING OUT OF SURPLUS SPACES ON VARIOUS COMPANY OWNED  
PARCELS OF LAND**

**FEBRUARY 2024**

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

**TENDER DOCUMENT FOR LEASING OUT OF KPLC LAND**  
(All bidders including Youth, Women and Persons with disability)

**TENDER DOCUMENT FOR LEASING SERVICES**  
**(E-PROCUREMENT OPEN TENDER SYSTEM)**

THE KENYA POWER & LIGHTING COMPANY LIMITED  
CENTRAL OFFICE, STIMA PLAZA,  
KOLOBOT ROAD, PARKLANDS,  
P.O. BOX 30099-00100,  
NAIROBI,  
KENYA.

Telephones: +254-020-3201000; 3644000 Pilot Lines

Telephones: 0711031334, 0711031932

Website: [www.kplc.co.ke](http://www.kplc.co.ke)

Email     1. [Procurement@kplc.co.ke](mailto:Procurement@kplc.co.ke)  
              2. [DianaBett@kplc.co.ke](mailto:DianaBett@kplc.co.ke)  
              3. [JMutai@kplc.co.ke](mailto:JMutai@kplc.co.ke)  
              4. [JMuigai@kplc.co.ke](mailto:JMuigai@kplc.co.ke)

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## **PREFACE**

Pursuant to Section 70 of the Public Procurement and Asset Disposal Act, 2015 (PPADA), this Standard Tender Document (STD) for lease of premises has been prepared by Kenya Power based on The Public Procurement Regulatory Authority's Standard Tender Document (STD) for Leasing services (February 2021).

## ABBREVIATIONS

AO	Accounting Officer
CBK	Central Bank of Kenya
CBQ	Confidential Business Questionnaire
FY	Financial / Fiscal Year
GTP	Guaranteed Technical Particulars
IFT	Invitation for Tenders
ITT	Instructions to Tenderers
JV	Joint Venture
PPADA	Public Procurement and Asset Disposal Act, 2015
PPADR	Public Procurement and Asset Disposal Regulations 2020
PPRA	Public Procurement Regulatory Authority
R	Responsive
NR	Not-Responsive
DT	Direct tender
STD	Standard Tender Documents
TDS	Tender Data Sheet
TEC	Tender Evaluation Committee



# INVITATION TO TENDER

**DATE: 27th February , 2024**

**TENDER NO. KP1/9A.2/OT/050/ADMIN/23-24**

**NAME: PROPOSED LEASING OUT OF SURPLUS SPACES ON VARIOUS COMPANY OWNED PARCELS OF LAND**

- 1.1 The Kenya Power & Lighting Company Limited hereinafter referred to KPLC invites bids from eligible Tenderers for **Proposed Leasing Out of Surplus Spaces On Various Company Owned Parcels Of Land** .Interested eligible Tenderers may obtain further information from the General Manager- Supply Chain, The Kenya Power & Lighting Company Ltd at Stima Plaza, 3<sup>rd</sup> Floor, Kolobot Road, P.O. Box 30099 – 00100 Nairobi, Kenya.
- 1.2 Obtaining tender documents.
- 1.2.1 Tender documents detailing the requirements may be obtained from the KPLC E- Procurement Portal – RFx 1000002573
- 1.2.2 Prospective bidders may also download the tender document from KPLC's website ([www.kplc.co.ke](http://www.kplc.co.ke)) free of charge.
- 1.3 Submission of Tender documents
- Completed Tenders are to be submitted in electronic format on the KPLC's E-procurement portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums.
- Completed Tenders are to be submitted in electronic format on the KPLC's E-procurement portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted ONLINE on or before the submission date and time indicated on the KPLC tendering portal.
- 1.4 Tender Closing Date and Time
- Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at Stima Plaza. All health protocols during opening **must** be observed and **only one representative** will be allowed in opening venue.
- 1.5 Prices
- Offered Price should be inclusive of all taxes, duties, levies and delivery costs to the premises (where applicable) of KPLC or other specified site must be in Kenya Shillings or a freely convertible currency in Kenya and shall remain valid for **One Hundred and Eighty (180) days** from the closing date of the tender. ***Please note that prices quoted shall be exclusive of VAT.***
- 1.6 Opening of submitted Tenders
- Tenders will be opened promptly thereafter in the presence of the Tenderer's or their representatives who choose to attend in,Stima Plaza , Nairobi. All health protocols during opening **must** be observed and **only one representative** will be allowed in opening venue.
- 1.7 Pre-Bid Meeting will be held on **5<sup>th</sup> March 2024** at Stima Plaza auditorium from 10.00am. There will be individual site visits meeting tabulated as follows:

Region	Dates
Nairobi region	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.
Mt Kenya & North eastern	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.
West Kenya	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.
North rift	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.
Central rift	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.
Coast	18 <sup>th</sup> March 2024 to 22 <sup>nd</sup> March 2024.

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**PART 1 - TENDERING PROCEDURES**

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## SECTION I - INSTRUCTIONS TO TENDERERS

### A General Provisions

#### 1. Scope of Tender and Definitions

1.1 KPLC as define in the Appendix to Conditions of Contract invites tenders for leasing out of KPLC land, staff houses ad bill board sites if applicable, any related services incidental thereto, as specified in Section VII, Schedule of Requirements. The name, identification, and number of lots (contracts) of this Tender Document are **specified in the TDS**.

1.2 Throughout this tendering document:

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

#### 2 Fraud and Corruption

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

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

2.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, KPLC shall indicate in the **Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

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

#### 3 Eligible Tenderers

3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 4.6, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. A firm that is a Tenderer (either individually or as a JV member) may participate in more than one Tender, offering different items that meet the requirements of the Lease. A firm that is not a Tenderer or a JV member,

may participate as a subcontractor in more than one Tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number members shall be specified in the **TDS**.

- 3.2 Public Officers of KPLC, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 3.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:
- a Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or
  - b Receives or has received any direct or indirect subsidy from another Tenderer; or
  - c Has the same legal representative as another Tenderer; or
  - d Has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of KPLC regarding this Tendering process; or
  - e Or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the Tender; or
  - f Or any of its affiliates has been hired (or is proposed to be hired) by KPLC or Procuring Entity for the Contract implementation; or
  - g would be providing Lease Items, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
  - h has a close business or family relationship with a professional staff of KPLC who:
  - i are directly or indirectly involved in the preparation of the tendering document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or
  - j would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to KPLC throughout the Tendering process and execution of the Contract.
- 3.4 A Tenderer shall not be involved in corrupt, coercive, obstructive, collusive, or fraudulent practice. A tenderer that is proven to have been involved in any of these practices shall be automatically disqualified and would not be awarded a contract.
- 3.5 A firm that is a Tenderer (either individually or as a JV member) may participate in more than one Tender, offering different items that meet the requirements of the Lease. A firm that is not a Tenderer or a JV member, may participate as a subcontract or in more than one Tender.
- 3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.
- 3.7 A Tenderer that has been debarred by the PPRA from participating in public procurement shall be ineligible to be prequalified for a tender or be awarded a contract. The list of debarred firms and

individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).

- 3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.
- 3.9 Firms and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of Lease Items or contracting for supply of Lease Items or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to KPLC, as KPLC shall reasonably request.
- 3.10 For purposes of granting a margin of preference, a tender is considered a national tenderer if it is registered in Kenya, has more than 51 percent ownership by nationals of Kenya and if it does not subcontract foreign contractors more than 10 percent of the contract price, excluding provisional sums. JVs are considered as national tenderers and eligible for national preference only if the individual member firms are registered in Kenya or have more than 51 percent ownership by nationals of Kenya, and the JV shall be registered in Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.
- 3.11 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 KPLC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the Leases under this Invitation for tenders.
- 3.12 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website [www.cak.go.ke](http://www.cak.go.ke).
- 3.13 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

#### **4 Eligible Lease Items and Related Services**

- 4.1 All the Lease Items and Related Services to be supplied under the Contract and financed by KPLC shall have their origin from Eligible Countries in accordance with ITT 3.8.
- 4.2 For purposes of this ITT, the term “Lease Items” includes, landed properties, buildings and related accommodations, vessels (land, air and sea), vehicles, machinery, plant and equipment, “related services” including services such as insurance, installation, training, and maintenance.
- 4.3 The term “origin” means the country where the Lease Items have been sourced from, manufactured, processed, or assembled.
- 4.4 A lease item may be considered ineligible if it has items, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

## **B. Contents of Tendering Document**

### **5 Sections of Tendering Document**

5.1 The tendering document consist of Parts1, 2, and 3, which include all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT 10.

#### **PART 1 Tendering Procedures**

- i) Section I- Instructions to Tenderers (ITT)
- ii) Section II - Tendering Data Sheet (TDS)
- iii) Section III – Evaluation and Qualification Criteria
- iv) Section IV- Tendering Forms

#### **PART 2 Supply Requirements**

- v) Section V - Schedule of Requirements

#### **PART 3 Contract**

- vi) Section VI-General Conditions of Contract (GCC)
- vii) Section VII-Special Conditions of Contract (SCC)
- viii) Section VIII-Contract Forms

5.2 The Specific Procurement Notice, Invitation to Tenders Notice, issued by KPLC is not part of this tendering document.

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

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

### **6 Clarification of Tendering Document**

A Tenderer requiring any clarification of the tendering document shall contact KPLC in writing at KPLC's address specified in the **TDS**. KPLC will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of Tenders within a period specified in the **TDS**. KPLC shall forward copies of its response to all Tenderers who have acquired the tendering document in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If so specified in the **TDS**, KPLC shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result in changes to the essential elements of the tendering document, KPLC shall amend the tendering document following the procedure under ITT8 and ITT 22.2.

### **7 Amendment of Tendering Document**

7.1 At any time prior to the deadline for submission of Tenders, KPLC may amend the tendering document by issuing addenda.

7.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from KPLC in accordance with ITT 6.3. KPLC shall also promptly publish the addendum on KPLC's webpage in accordance with ITT 7.1.

7.3 To give prospective Tenderers reasonable time in which to take an addendum into account in



preparing their Tenders, KPLC may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 22.2.

## **C. Preparation of Tenders**

### **8 Cost of Tendering**

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

### **9 Language of Tender**

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

## **10 Documents Comprising the Tender**

- 10.1 The Tender shall comprise the following:

- a **Form of Tender** prepared in accordance with ITT 11;
- b **Price Schedules**: completed in accordance with ITT 11 and ITT 13;
- c **Tender Security or Tender – Securing Declaration**, in accordance with ITT 18.1;
- d **Alternative Tender**: if permissible, in accordance with ITT 12;
- e **Authorization**: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 29.3;
- f **Qualifications**: documentary evidence in accordance with ITT 16 establishing the Tenderer qualifications to perform the Contract if its Tender is accepted;
- g **Tenderer Eligibility**: documentary evidence in accordance with ITT 16 establishing the Tenderer eligibility to tender;
- h **Eligibility of Lease Items and Related Services**: documentary evidence in accordance with ITT 15, establishing the eligibility of the Lease Items and Related Services to be supplied by the Tenderer;
- i **Conformity**: documentary evidence in accordance with ITT 15 and 28, that the Lease Items and Related Services conform to the tendering document; and
- j Any other document required **in the TDS**.

- 10.2 In addition to the requirements under ITT 13.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement.

- 10.3 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

## **11 Form of Tender and Price Schedules**

- 11.1 The Form of Tender and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize pages of all tender documents submitted.

- 11.2 Each item on the Schedule of Requirements must be priced separately in the Price Schedules and for full quantities required. Items not priced for full quantity on the Schedule of Requirements will be rejected. TENDERERS MAY QUOTE FOR ONE OR MORE OF THE ITEMS ON THE SCHEDULE OF REQUIREMENTS. Tenders will be evaluated and awarded on basis of each item.
- 11.3 Where tenders are being invited for individual Items/lots (contracts) or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify so in their Tender the price reductions applicable to each Item or alternatively, to individual items. Discounts shall be submitted in accordance with ITT 13.1, provided the Tenders for all lots (contracts) are opened at the same time.
- 11.4 All duties, taxes, and other levies payable by the Contract or under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

## **12 Alternative Tenders**

- 12.1 Unless otherwise specified **in the TDS**, alternative Tenders shall not be considered.

## **13 Tender Prices and Discounts**

- 13.1 The prices and discounts quoted by the Tenderer in the Form of Tender and in the Price Schedules shall conform to the requirements specified below.
- 13.2 The price to be quoted in the Form of Tender in accordance with ITT 14.1 shall be the total price of all the items but the attachment of the Schedule of prices, excluding any discounts offered.
- 13.3 The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender, in accordance with ITT 14.1.
- 13.4 Prices quoted by the Tenderer shall be fixed during the time of the Lease under the Contract and not subject to variation on any account, unless otherwise specified **in the TDS**. A Tender submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITT 29. However, if in accordance with **the TDS**, prices quoted by the Tenderer shall be subject to adjustment during the Lease under the Contract, a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 13.5 If so specified in ITT 1.1, Tenders are being invited for individual lots (contracts) or for any combination of lots (packages). Prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts with in the package. Discounts shall be submitted in accordance with ITT 14.4 provided the Tenders for all lots (contracts) are opened at the same time.
- 13.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Tendering Forms. The disaggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by KPLC. This shall not in any way limit KPLC's right to contract on any of the terms offered. The Tenderer may obtain insurance services from any eligible country in accordance with ITT 3, Eligible Tenders. The tender shall include Related Services required to maintain the leased item as specified in the Schedule of Requirements (inclusive of any applicable taxes).

## **14 Currencies of Tender and Payment**

- 14.1 The currency (ies) of the Tender and the currency (ies) of payments shall be the same. The Tenderer shall quote in Kenya shillings unless otherwise specified **in the TDS**.



## **15 Documents Establishing the Eligibility and Conformity of the Lease Items and Related Services.**

- 15.1 To establish the eligibility of the lease items and Related Services in accordance with ITT 5, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.
- 15.2 To establish the conformity of the Lease items and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Lease Items conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.
- 15.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Lease Items and Related Services, demonstrating substantial responsiveness of the Lease Items and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 15.4 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Lease Items during the period **specified in the TDS** following commencement of the use of the Lease Items by KPLC.
- 15.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by KPLC in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to KPLC's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

## **16 Documents Establishing the Eligibility and Qualifications of the Tenderer**

- 16.1 To establish Tenderer eligibility in accordance with ITT 4, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.
- 16.2 The documentary evidence of the Tenderer qualifications to perform the Contract if its Tender is accepted shall establish to KPLC's satisfaction:
  - (a) that, if required **in the TDS**, a Tenderer that does not own the Lease Items it offers shall submit the Owner's Authorization using the form included in Section IV, Tendering Forms to demonstrate that it has been duly authorized by the Owner of the Lease Items.
  - (b) that, if required **in the TDS**, in case of a Tenderer not doing business within Kenya, the Tenderer is or will be (if awarded the Contract) represented by an Agent in the country equipped and able to carry out the related services of the leased items as obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
  - (c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.
- 16.3 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by KPLC, a particular lessee or group of lessors qualifies for a margin of preference. Further the information will enable KPLC identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.
- 16.4 The purpose of the information described in ITT 16.3 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be

accepted by KPLC as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

- 16.5 The Tenderer shall provide further documentary proof, information or authorizations that KPLC may request in relation to ownership and control which in formation on any changes to the information which was provided by the tenderer under ITT 16.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.
- 16.6 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to KPLC. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to KPLC.
- 16.7 If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if KPLC is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 16.8 If information submitted by a tenderer pursuant to these requirements, or obtained by KPLC (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:
- i) If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process.
  - ii) If the contract has been awarded to that tenderer, the contract award will be set aside.
  - iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.
- 16.9 If a tenderer submits information pursuant to these requirements that is incomplete, in accurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 16.8 will ensue unless the tenderer can show to the reasonable satisfaction of KPLC that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

## **17 Period of Validity of Tenders**

- 17.1 Tenders shall remain valid for the Tender Validity period specified **in the TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by KPLC in accordance with ITT 22.1). A Tender valid for a shorter period shall be rejected by KPLC as non-responsive.
- 17.2 In exceptional circumstances, prior to the expiration of the Tender validity period, KPLC may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 19, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 18.3.

## **18 Tender Security**

- 18.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security, as specified **in the TDS**, in original form and, in the case of a Tender Security, in the amount and currency specified **in the TDS**. In this case a Tender-Securing Declaration or a Tender Security shall be for each item. Alternatively, a tenderer may aggregate all the Items tendered for and provide one Tender-Securing Declaration or a Tender Security in the required amounts, as the case may be.

- 18.2 A Tender Securing Declaration shall use the form included in Section IV, Tendering Forms.
- 18.3 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand bank guarantee in any of the following forms at the Tenderer option:
- i. cash;
  - ii. a bank guarantee;
  - iii. a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
  - iv. a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya.
  - v. Any other form specified in the **TDS**.
- 18.4 If an unconditional guarantee is issued by a non-Bank financial institution located outside Kenya, the issuing non-Bank financial institution shall have a correspondent financial institution located in Kenya to make it enforceable unless KPLC has agreed in writing, prior to Tender submission, that a correspondent financial institution is not required. In the case of a bank guarantee, the Tender Security shall be submitted either using the Tender Security Form included in Section IV, Tendering Forms, or in another substantially similar format approved by KPLC prior to Tender submission. The Tender Security shall be valid for twenty-eight (28) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.
- 18.5 If a Tender Security is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by KPLC as non-responsive.
- 18.6 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer signing the Contract and furnishing the Performance Security pursuant to ITT 46.
- 18.7 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract. The Procurement Entity shall also return tender security to the tenderers where;
- a. The procurement proceedings are terminated
  - b. All tenders were determined non-responsive and
  - c. Where a bidder decline to extent the tender validity period.
- 18.8 The Tender Security may be forfeited or the Tender Securing Declaration executed:
- a) If a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender, or any extension thereto provided by the Tenderer; or
  - i) If the successful Tenderer fails to sign the Contract in accordance with ITT 45; or
  - ii) Furnish or make available the Leased items.
- 18.9 The Tender Security or Tender- Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.
- 18.10 Where the Tender-Securing Declaration is executed KPLC will recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.
- 18.11 A tenderer shall not issue a tender security to guarantee itself.

## **19 Format and Signing of Tender**

- 19.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT

13, shall be clearly marked “ALTERNATIVE.” In addition, the Tenderer shall submit copies of the Tender, in the number **specified in the TDS** and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

- 19.2 Tenderers shall mark as “CONFIDENTIAL” information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 19.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation **as specified in the TDS** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 19.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 19.5 Any inter-lineation, erasures, or over writing shall be valid only if they are signed or initialed by the person signing the Tender.

#### **D. Submission and Opening of Tenders**

#### **20 Sealing and Marking of Tenders**

- 20.1 The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to KPLC and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:
- a in an envelope or package or container marked “ORIGINAL”, all documents comprising the Tender, as described in ITT11; and
  - b in an envelope or package or container marked “COPIES”, all required copies of the Tender; and
  - c if alternative Tenders are permitted in accordance with ITT 13, and if relevant:
    - i. in an envelope or package or container marked “ORIGINAL –ALTERNATIVE TENDER”, the alternative Tender; and
    - ii. in the envelope or package or container marked “COPIES- ALTERNATIVE TENDER”, all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) bear the name and address of KPLC.
  - b) Bear the name and address of the Tenderer; and
  - c) Bear the name and Reference number of the Tender.
- 20.2 If an envelope or package or container is not sealed and marked as required, KPLC will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.

#### **21 Deadline for Submission of Tenders**

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

- 21.2 KPLC may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 8, in which case all rights and obligations of KPLC and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **22 Late Tenders**

- 22.1 KPLC shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 22. Any Tender received by KPLC after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

## **23 Withdrawal, Substitution, and Modification of Tenders**

- 23.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT 20.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:
- a prepared and submitted in accordance with ITT 20 and 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
  - b received by KPLC prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.
- 23.2 Tenders requested to be withdrawn in accordance with ITT 24.1 shall be returned unopened to the Tenderers.
- 23.3 No Tender may be withdrawn, substituted, or modified 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 Form of Tender or any extension thereof.

## **24 Tender Opening**

- 24.1 Except as in the cases specified in ITT 23 and ITT 24.2, KPLC shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives and anyone who chooses to attend Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 22.1, shall be as specified **in the TDS**.
- 24.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.
- 24.3 Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.
- 24.4 Next, envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 24.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security, if required; and



any other details as KPLC may consider appropriate.

- 24.6** Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further in the evaluation. The Form of Tender and the Price Schedules are to be initialed by representatives of KPLC attending Tender opening in the manner specified **in the TDS**.
- 24.7 KPLC shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 23.1).
- 24.8 KPLC shall prepare a record of the Tender opening that shall include, as a minimum:
- a The name of the Tenderer and whether there is a withdrawal, substitution, or modification;
  - b The Tender Price, per lot (contract) if applicable, including any discounts;
  - c Any alternative Tenders;
  - d The presence or absence of a Tender Security or Tender-Securing Declaration, if one was required.
- 24.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer signature on the record shall not invalidate the contents and effect of the record. A copy of the opening register shall be distributed to all Tenderers upon request.

## **E. Evaluation and Comparison of Tenders**

### **25 Confidentiality**

- 25.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the Tendering process until the information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 40.
- 25.2 Any effort by a Tenderer to influence KPLC in the evaluation or contract award decisions may result in the rejection of its Tender.
- 25.3 Notwithstanding ITT 26.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact KPLC on any matter related to the Tendering process, it should do so in writing.

### **26 Clarification of Tenders**

- 26.1 To assist in the examination, evaluation, comparison of the Tenders, and qualification of the Tenderers, KPLC may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by KPLC shall not be considered. KPLC's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall besought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by KPLC in the Evaluation of the Tenders, in accordance with ITT 31.
- 26.2 If a Tenderer does not provide clarifications of its Tender by the date and time set in KPLC's request for clarification, its Tender may be rejected.

### **27 Deviations, Reservations, and Omissions**

- 27.1 During the evaluation of Tenders, the following definitions apply:
- a "Deviation" is a departure from the requirements specified in the Tendering document;
  - b "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and
  - c "Omission" is the failure to submit part or all of the information or documentation required in the tendering document.

## **28 Determination of Responsiveness**

- 28.1 KPLC's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 11.
- 28.2 A substantially responsive Tender is one that meets the requirements of the tendering document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- a If accepted, would:
    - i. Affect in any substantial way the scope, quality, or performance of the Lease Items and Related Services specified in the Contract; or
    - ii. Limit in any substantial way, in consistent with the tendering document, KPLC's rights or the Tenderer obligations under the Contract; or
  - b if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.
- 28.3 KPLC shall examine the technical aspects of the Tender submitted in accordance with ITT 16 and ITT 17, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.
- 28.4 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by KPLC and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

## **29 Non-conformities, Errors and Omissions**

- 29.1 Provided that a Tender is substantially responsive, KPLC may waive any non-conformities in the Tender.
- 29.2 Provided that a Tender is substantially responsive, KPLC may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non- conformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.
- 29.3 Provided that a Tender is substantially responsive, KPLC shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the **TDS**.

## **30 Correction of Arithmetical Errors**

- 30.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in anyway by any person or entity.
- 30.2 Provided that the Tender is substantially responsive, KPLC shall handle errors on the following basis:
- a Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.
  - b Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and
  - c If there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail

### **31 Conversion to Single Currency**

31.1 No conversion to single currency is expected since all tenders will be in Kenya shillings.

### **32 Margin of Preference and reservations**

32.1 No Margin of Preference and Reservations shall be allowed in this tender.

### **33 Evaluation of Tenders**

33.1 KPLC shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, KPLC shall determine the Most Advantageous Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:

- a Substantially responsive to the tendering document; and
- b The highest evaluated bidder.

33.2 To evaluate a Tender, KPLC shall consider the following:

- a Price adjustment due to discounts offered in accordance with ITT 14.4;
- b Price adjustment due to quantifiable non material non-conformities in accordance with ITT 30.3; and
- c The additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.

33.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of the Lease Contract, shall not be considered in Tender evaluation.

33.4 In the case of multiple contracts or lots, Tenderers are allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) and for combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.

33.5 KPLC's evaluation of a Tender will include and consider:

- a taxes, which will be payable on the Lease Items if a contract is awarded to the Tenderer;
- b any allowance for price adjustment during the period of the Lease contract, if provided in the Tender.

33.6 KPLC's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT 14. These factors may be related to the characteristics, performance, and terms and conditions of Lease and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified **in the TDS** from amongst those set out in Section III, Evaluation and Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITT 34.2 (f).

### **34 Comparison of Tenders**

34.1 KPLC shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 34.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of total cost for all Lease Items, and related services, together with prices for any required installation, training, commissioning and other services.

### **35 Abnormally Low Tenders and Abnormally High Tenders Abnormally Low Tenders**

35.1 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.



- 35.2 In the event of identification of a potentially Abnormally Low Tender, KPLC shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.
- 35.3 After evaluation of the price analyses, in the event that KPLC determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, KPLC shall reject the Tender.

### **Abnormally High Tenders**

- 35.4 An abnormally high tender price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that KPLC is concerned that it (KPLC) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.
- 35.5 In case of an abnormally high price, KPLC shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. KPLC may also seek written clarification from the tenderer on the reason for the high tender price. KPLC shall proceed as follows:
- i) If the tender price is abnormally high based on wrong estimated cost of the contract, KPLC may accept or not accept the tender depending on KPLC's budget considerations.
  - ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, KPLC shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.
- 35.6 If KPLC determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), KPLC shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.

### **36 Qualification of the Tenderer**

- 36.1 KPLC shall determine, to its satisfaction, whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 36.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer qualifications submitted by the Tenderer, pursuant to ITT 17. The determination shall not take into consideration the qualifications of other firms such as the Tenderer subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the tendering document), or any other firm(s) different from the Tenderer.
- 36.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event KPLC shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated cost to make a similar determination of that Tenderer qualifications to perform satisfactorily.

### **37 Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders**

- 37.1 KPLC reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to Contract Award, without there by incurring any liability to Tenderers. In case of annulment, all Tenders submitted and specifically, tender securities, shall be promptly returned to the Tenderers.

### **F. Award of Contract**

### **38. Award Criteria**

- 38.1 KPLC shall award the Contract to the successful tenderer whose tender has been determined to be the highest rent payable above the reserve rent in the schedule.

### **39. Notice of Intention to enter into a Contract/Notification of award**

- 39.1 Upon award of the contract and Prior to the expiry of the Tender Validity Period KPLC shall issue a Notification of Intention to Enter into a Contract/Notification of award to all tenderers which shall contain, at a minimum, the following information:
- a) The name and address of the Tenderer submitting the successful tender;
  - b) The Contract price of the successful tender;
  - c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
  - d) the expiry date of the Standstill Period; and
  - e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

### **40. Standstill Period**

- 40.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.
- 40.2 Where a Standstill Period applies, it shall commence when KPLC has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.

### **41. Debriefing by KPLC**

- 41.1 On receipt of KPLC's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to KPLC for a debriefing on specific issues or concerns regarding their tender. KPLC shall provide the debriefing within five days of receipt of the request.
- 41.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

### **42. Letter of Award**

- 42.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, KPLC shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

### **43. Signing of Contract**

- 43.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, KPLC shall send the successful Tenderer the Contract Agreement.
- 43.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to KPLC.
- 43.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.

### **44. Performance Security**

- 44.1 Within twenty-one (21) days of the receipt of Letter of Acceptance from KPLC, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC 18, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another Form acceptable to KPLC. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to KPLC. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless KPLC has agreed in writing that a correspondent financial institution is not required.
- 44.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event KPLC may award the Contract to the Tenderer offering the next Most Advantageous Tender.
- 44.3 Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings.

#### **45. Publication of Procurement Contract**

- 45.1 Within fourteen days after signing the contract, KPLC shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:
- a) name and address of KPLC;
  - b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
  - c) the name of the successful Tenderer, the final total contract price, the contract duration.
  - d) dates of signature, commencement and completion of contract;
  - e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

#### **46 Procurement Related Complaint and Administrative Review**

- 46.1 The procedures for making a Procurement-related Complaint are as specified in the **TDS**.
- 46.2 A request for administrative review shall be made in the form provided under contract forms.

## Section II - 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.

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General</b>	
ITT 1.1	<p>The reference number of the Invitation for Tenders is: <b>KP1/9A.2/OT/050/ADMIN/23-24</b></p> <p>The Procuring Entity is: <b>KENYA POWER &amp; LIGHTING COMPANY PLC</b></p> <p>The name of the Tender is: <b>Proposed Leasing out of Surplus Spaces on Various Company Owned Parcels of Land</b></p> <p>The number and identification of this Invitation for Tenders is: <b>KP1/9A.2/OT/050/ADMIN/23-24</b></p>
ITT 1.2(a)	<p><b>Procurement System</b></p> <p>Completed Tenders are to be submitted in electronic format on the KPLC's E-procurement portal on the due date and time published on the portal. Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted <b>ONLINE</b> on or before the submission date and time indicated on the <b>KPLC tendering portal</b></p> <p><b>(Issuing Tendering document, submission of Tenders, opening and evaluation of Tenders)</b></p> <p>Proof of receipt will be done via the bidder's <b>Submitted Response Number</b> for the RFX 100002573</p>
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: <b>N/A</b>
ITT 3.2	Definition of relative will be as provided for under Section 59 (2) (b) of the Public Procurement and Asset Disposal Act, 2015
ITT 3.7	<p>1) 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></p> <p>2) Tenderers with any record of <b>unethical practice</b> or <b>unsatisfactory</b> or <b>default in performance</b> shall NOT be considered for evaluation, award or otherwise. For avoidance of doubt, this shall include any tenderer with unresolved case(s) in its conduct or performance obligations for more than two (2) months in any contract.</p>
<b>B. Contents of Tendering Document</b>	
ITT 6.	<p>For Clarification of Tender purposes only, KPLC's address is:</p> <p>General Manager, Supply Chain &amp; Logistics The Kenya Power and Lighting Company PLC Stima Plaza, 3rd Floor Kolobot Road, Parklands P.O Box 30099 - 00100 Nairobi.</p> <p>Requests for clarification should be received by KPLC no later than: <i>[5 days]</i>.</p> <p>Kenya Telephone: +254-20-3201821</p>

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Electronic mail address: <a href="mailto:Procurement@kplc.co.ke">Procurement@kplc.co.ke</a> , <a href="mailto:DianaBett@kplc.co.ke">DianaBett@kplc.co.ke</a> , <a href="mailto:JMutai@kplc.co.ke">JMutai@kplc.co.ke</a> and copy to <a href="mailto:JMuigai@kplc.co.ke">JMuigai@kplc.co.ke</a> Web page: <a href="http://www.kplc.co.ke">www.kplc.co.ke</a>
	<b>C. Preparation of Tenders</b>
ITT 12.1	Alternative Tenders <b>shall not</b> be considered.
ITT 13.4	Prices quoted by the Tenderer <b>shall not be fixed</b> during submission of the quotes subject to negotiation.
ITT 14.1	Tenderer to quote in Kenyan Currency (KES)
ITT 15.4	The period of the lease shall be : 6 to <i>10 years</i>
ITT 16.2 (a)	Owner's authorization is: <i>Not required</i>
ITT 16.2 (b)	Related services are: <i>Not required</i>
ITT 17.1	The Tender validity period shall be <i>One hundred and eighty (180) Calendar days</i>
ITT 17.3 (a)	The Tender price shall be adjusted as follows: _____ Rent shall escalate at 5% after every two years for land and 5% annually for Billboard sites
ITT 18.1	<i>Tender-Securing Declaration shall not be required for this tender</i> A Tender Security <i>shall not be</i> required. A Tender-Securing Declaration <i>shall not be</i> required.
ITT 19.1	In addition to the original of the Tender, the number of copies is: The tenderer shall submit only one original filled tender document
ITT 19.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: N/A
ITT 19.4	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of a Power of Attorney. The name and position held by each person signing the authorization must be typed or printed below the signature. The Power of Attorney <b>must show the name and specimen signature of the person authorized to sign the documents.</b> <b>This applies to only Limited Companies and Partnerships.</b>
	<b>D. Submission and Opening of Tenders</b>
ITT 20	<b>The deadline for Tender submission is:</b> Tender closing date and time is as specified in the KPLC's tendering portal.

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 21.1	Tenderers are required to visit the portal from time to time for revised closing dates and addendums. The Tender is to be submitted <b>ONLINE</b> on or before the submission date and time indicated on the <b>KPLC tendering portal</b>
ITT 23	Withdrawals, substitution or modifications can be done through writing to Attention to : Electronic mail address: <a href="mailto:Procurement@kplc.co.ke">Procurement@kplc.co.ke</a> , <a href="mailto:DianaBett@kplc.co.ke">DianaBett@kplc.co.ke</a> , <a href="mailto:JMutai@kplc.co.ke">JMutai@kplc.co.ke</a> and copy to <a href="mailto:JMuigai@kplc.co.ke">JMuigai@kplc.co.ke</a> before the tender closing time
ITT 24	The Tender opening shall take place at: Physical Address: <i>Stima Plaza – Auditorium</i>
	<b>E. Evaluation and Comparison of Tenders</b>
ITT 33	The consideration of other factors during the evaluation, in addition to the Tender Price quoted, include the factors set out below as more fully described in Section III – Evaluation and Qualification Criteria.
	<b>F. Award of Contract</b>
ITT 38	<i>Mode of award shall be in accordance with the following:</i>  Award of the lease will be to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the Highest evaluated tender KPLC shall award the Contract to the sole tenderer upon successful evaluation.
ITT 46.1	<b>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> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>.</b>  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:  General Manager, Supply Chain & Logistics The Kenya Power and Lighting Company PLC Stima Plaza, 3rd Floor Kolobot Road, Parklands P.O Box 30099 - 00100 Nairobi.  In summary, a Procurement-related Complaint may challenge any of the following:  <ol style="list-style-type: none"><li>1. The terms of the Tendering Documents; and</li><li>2. KPLC’s decision to award the contract.</li></ol>

## SECTION III - EVALUATION AND QUALIFICATION CRITERIA

### 1. General Provision

- 1.1 Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:
- a) For business turnover or financial data required for each Year-Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established. **N/A**
  - b) Value of single contract- Exchange rate prevailing on the date of the contract signature.
  - c) Exchange rates shall be taken from the publicly available source identified in the ITT. Any error in determining the exchange rates in the Tender may be corrected by KPLC.
- 1.2 This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. KPLC should use **the Standard Tender Evaluation Report for Goods and Works** for evaluating Tenders.

### 1.3 Evaluation and contract award Criteria

KPLC shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the final price after carrying out negotiations. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents

### 2 Preliminary examination for Determination of Responsiveness

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

#### 2.2 Part 1 - Preliminary Evaluation Criteria Under Paragraph 33.1 of the ITT. These are mandatory requirements. This shall include confirmation of the following: -

- i. Confirming that the Tender is valid for the period required*
- ii. Submission and considering Tender Form duly completed and signed*
- iii. Submission of Certificate of Independent Tender Determination duly completed and signed*
- iv. Submission of Self-Declaration Forms (SD1 & SD2) duly completed and signed*
- v. Declaration and Commitment to the Code of Ethics duly completed and signed.*
- vi. Submission and considering the fully filled Confidential Business Questionnaire*
- vii. Submission and considering the following: -*

*For Local Tenderers*

- a) Company or Firm's Registration Certificate*

- b) *KRA PIN Certificate.*
- For Individual Tenderers*
- a) *National Identity Card*
  - b) *Personal KRA PIN Certificate*

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

### **2.3 Part II - Technical Evaluation Criteria under Paragraph 33.1 of the ITT.**

- Considering and submission of duly signed site visit form for tendered sites duly signed and stamped.
- Bidders proposed use or requirement visa vis KPLC recommended use.

**The consideration of other factors during the evaluation, in addition to the Tender Price quoted, include the factors set out below as more fully described in Section III – Evaluation and Qualification Criteria.**

### **2.3 Part II - Financial Evaluation Criteria under Paragraph 33.1 of the ITT.**

- a) Confirmation of and considering Price/rates Schedule duly completed and signed.
- b) Checking for any arithmetical errors.



**SCHEDULE OF LANDS OFFERED FOR LEASING “AS IS WHERE BASIS IS”**

**PROPOSED LEASING OUT OF SURPLUS SPACES ON VARIOUS COMPANY OWNED PARCELS OF LAND**

The following is a schedule of premises for leasing out.

<b>No .</b>	<b>LR. No</b>	<b>Location</b>	<b>Availa ble size in acres</b>	<b>KPLC recommen ded use</b>	<b>Tick on areas of interest</b>	<b>Bidders proposed use</b>
1	31/9	Baba Dogo rd	2	Industrial/ Ware housing		
2	57/33	Clayworks	9.67	Commercial		
3	10060/18	National Control	2.1	Industrial/ Ware housing		
4	Ngong/Ngon g/32686	Ngong	1	Commercial		
5	Ngong/Ngon g/23716	Ngong	0.5	Commercial		
6	209/11624	Mombasa rd - Embakasi	2.9654	Industrial/ Ware housing		
7	209/12119	Mombasa rd - Imara Daima	8	Industrial/ Ware housing		
8	Loc.8/Matha rite/Kighero/ 5	Muranga	4	Agricultural		
9	Baragwe/Rai mu/3569	Kianyaga	1	Agricultural		
10	2787/447 (part)	Nanyuki Leave House - Vacant portion	2.2	Commercial		
11	2787/447 (part)	Nanyuki Leave House with 3 bedroom house	1.74	Residential		
12	23949	Thika industrial	2	Industrial/ Ware housing		
13	Lari/Kirenga /	Uplands- Kiambu	4	Industrial/ Ware housing		

No .	LR. No	Location	Availa ble size in acres	KPLC recommen ded use	Tick on areas of interest	Bidders proposed use
14	MN/1/3180	Nyali	0.49	Commercial		
15	MN/SEC.VI/ 308	Portreitz	1.33	Industrial/ Ware housing		
16	Butsotso/Shi koti/2695	Kakamega	2.2	Agricultural		
17	Plot No. 15	Rumuruti	0.69	Commercial		
18	Kajiado/Ewu aso- Kedong/334 9	Longonot/sus wa	100	Agricultural		
19	Ksm Mun. Block 10/482 & 483	Milimani estate, Kisumu	0.1920	Commercial		

**Note: all the sites will attract a 5% escalation for the starting annual rent after every 2 years.**

**I. Schedule 2: Staff Houses available for lease**

No.	LR. No	Location	Acreage	Description	KPLC recommended use	Tick on areas of interest	Bidders proposed use
1	Nanyuki Municipality Block 9/23	Nanyuki	0.11 acres	2 Bedroomed house on 0.89 acres	Residential		
2	Nanyuki Municipality Block 9/25	Nanyuki	0.1148 acres	2 Bedroomed house on 0.1148 acres	Residential		
4	Nyeri Mun Bl. 1/261	Nyeri	0.5777 acres	4 bedroomed house with SQ on 0.5777 acres	Residential		
5	Nakuru Municipality Block 12/75 - Milimani Senior Staff Quarter	Milimani Nakuru	0.46 acres	3 bedroom house with SQ on 0.46 acres	Residential		
6	Eldoret Municipality/ Blk 8/101	Eldoret- Nandi Road	1.85 acres	3 bedroomed house with SQ on 1.85 acres	Residential		

**Note: all the sites will attract a 5% escalation for the starting annual rent after every 2 years.**

## II. Schedule 3: Billboard sites available for lease

No.	Plot No.	Proposed Location	Size of land for billboard	Escalation	Tick on areas of interest
1	209/12119	Villa Franca - Mombasa rd	Base 4m by 2m	5% annually	
2	209/4981	Ragati flats	Base 4m by 2m	5% annually	
3	9554	Roysambu	Base 4m by 2m	5% annually	
4	209/6502(PART)	Muthurwa Substation	Base 4m by 2m	5% annually	
5	8885	Stima Club - Thika Rd	Base 4m by 2m	5% annually	
6	209/4300/166	Pangani Staff houses	Base 4m by 2m	5% annually	
7	209/4847/7	Mbotela Estate	Base 4m by 2m	5% annually	
8	209/5949	Kiganjo lane (Bunyala Rd Nbi West)	Base 4m by 2m	5% annually	
9	Ngiriana/Merichi/2180	Kutus 132 Substation	Base 4m by 2m	5% annually	
10	8385/3	Ruiru depot	Base 4m by 2m	5% annually	
11	Embu/Mun/1498	Embu	Base 4m by 2m	5% annually	
12	Kiirua/Ruiru/699	Ruiru pole yard	Base 4m by 2m	5% annually	
13	MN/III/3504	Kanamai substation	Base 4m by 2m	5% annually	
14	20700	Gede substation	Base 4m by 2m	5% annually	
15	878	Watamu substation	Base 4m by 2m	5% annually	
16	12800	Diani substation	Base 4m by 2m	5% annually	
17	8363/4	Lanet , Nakuru	Base 4m by 2m	5% annually	
18	Nyahururu Mun Blk 8/354	Nyahururu Depot	Base 4m by 2m	5% annually	

<b>No.</b>	<b>Plot No.</b>	<b>Proposed Location</b>	<b>Size of land for billboard</b>	<b>Escalation</b>	<b>Tick on areas of interest</b>
19	Eldoret Mun Blk 8/101	Eldoret, Nandi Road	Base 4m by 2m	5% annually	
20	Eldoret Mun Blk 7/30	Eldoret, Oloo Street	Base 4m by 2m	5% annually	
21	Eldoret Mun Block 2/94	Eldoret Muyodi Street	Base 4m by 2m	5% annually	
22	14691/407	Lodwar Power Station	Base 4m by 2m	5% annually	

**PRICE SCHEDULE FOR PROPOSED LEASING OUT OF SURPLUS SPACES ON VARIOUS COMPANY OWNED PARCELS OF LAND**

The tenderer shall fill in this Price Schedule on the locations of their interest in accordance and insert in Form of Tender as instructed. The price schedule must be signed.

No .	LR. No	Location	Available size in acres	Proposed annual reserve rent for the space available for lease (Kshs)	Land required in acres (1 acre block available for land over 1 acre)	Bidders rent per annum (KES) (exclusive of VAT)	Total Rent inclusive of VAT	Duration of lease required (6 to 10 years)
1	31/9	Baba Dogo rd	2	4,800,000.00				
2	57/33	Clayworks	9.67	60,000,000.00				
3	10060/18	National Control	2.1	5,292,000.00				
4	Ngong/Ngong/32686	Ngong	1	600,000.00				
5	Ngong/Ngong/23716	Ngong	0.5	300,000.00				
6	209/11624	Mombasa rd - Embakasi	2.9654	10,971,980.00				
7	209/12119	Mombasa rd - Imara Daima	8	22,400,000.00				
8	Loc.8/Mathaite/Kighero/5	Muranga	4	60,000.00				
9	Baragwe/Raimu/3569	Kianyaga	1	15,000.00				
10	2787/447 (part)	Nanyuki Leave House - Vacant portion	2.2	396,000.00				
11	2787/447 (part)	Nanyuki Leave House with 3 bedroom house	1.74	600,000.00				
12	23949	Thika industrial	2	4,800,000.00				
13	Lari/Kirenga /	Uplands-Kiambu	4	720,000.00				
14	MN/1/3180	Nyali	0.49	3,600,000.00				

No .	LR. No	Location	Available size in acres	Proposed annual reserve rent for the space available for lease (Kshs)	Land required in acres (1 acre block available for land over 1 acre)	Bidders rent per annum (KES) (exclusive of VAT)	Total Rent inclusive of VAT	Duration of lease required (6 to 10 years)
15	MN/SEC.VI /308	Portreitz	1.33	771,400.00				
16	Butsotso/Shi koti/2695	Kakamega	2.2	792,000.00				
17	Plot No. 15	Rumuruti	0.69	250,000.00				
18	Kajiado/Ew uaso-Kedong/3349	Longonot/s uswa	100	20,000,000.00				
19	Ksm Mun. Block 10/482 & 483	Milimani estate, Kisumu	0.1920	360,000.00				

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

Signed by the Tenderer \_\_\_\_\_

Dated \_\_\_\_\_

### III. Schedule 2: Staff Houses available for lease

No .	LR. No	Location	Acreage	Description	Proposed annual reserve rent for the space available for lease (Kshs)	Rent per annum (KES)	Total price inclusive of VAT	Duration of lease required (6 to 10 years)
1	Nanyuki Municipality Block 9/23	Nanyuki	0.11 acres	2 Bedroomed house on 0.89 acres	240,000			
2	Nanyuki Municipality Block 9/25	Nanyuki	0.1148 acres	2 Bedroomed house on 0.1148 acres	240,000			
4	Nyeri Mun Bl. 1/261	Nyeri	0.5777 acres	4 bedroomed house with SQ on 0.5777 acres	480,000			
5	Nakuru Municipality Block 12/75 - Milimani Senior Staff Quarter	Milimani Nakuru	0.46 acres	3 bedroom house with SQ on 0.46 acres	600,000.00			

No.	LR. No	Location	Acreage	Description	Proposed annual reserve rent for the space available for lease (Kshs)	Rent per annum (KES)	Total price inclusive of VAT	Duration of lease required (6 to 10 years)
6	Eldoret Municipality/ Blk 8/101	Eldoret, Nandi Road	1.85 acres	3 bedroomed house with SQ on 1.85 acres	960,000.00			

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

Signed by the Tenderer \_\_\_\_\_

Dated \_\_\_\_\_

#### IV. Schedule 3: Billboard sites available for lease

No.	Plot No.	Proposed Location	Size of land for billboard	Proposed Annual Reserve Rent (KSHS) VAT Exclusive	Rent per annum (KES)	Total price inclusive of VAT	Duration of lease required (6 years)
1	209/12119	Villa Franca - Mombasa rd	Base 4m by 2m	700,000.00			
2	209/4981	Ragati flats	Base 4m by 2m	700,000.00			
3	9554	Roysambu	Base 4m by 2m	700,000.00			
4	209/6502(PART)	Muthurwa Substation	Base 4m by 2m	700,000.00			
5	8885	Stima Club - Thika Rd	Base 4m by 2m	700,000.00			
6	209/4300/166	Pangani Staff houses	Base 4m by 2m	700,000.00			
7	209/4847/7	Mbotela Estate	Base 4m by 2m	700,000.00			
8	209/5949	Kiganjo lane (Bunyala Rd Nbi West)	Base 4m by 2m	700,000.00			
9	Ngiriana/Merichi/2180	Kutus 132 Substation	Base 4m by 2m	400,000.00			
10	8385/3	Ruiru depot	Base 4m by 2m	600,000.00			
11	Embu/Mun/1498	Embu	Base 4m by 2m	400,000.00			
12	Kiirua/Ruiru/699	Ruiru pole yard	Base 4m by 2m	300,000.00			

No.	Plot No.	Proposed Location	Size of land for billboard	Proposed Annual Reserve Rent (KSHS) VAT Exclusive	Rent per annum (KES)	Total price inclusive of VAT	Duration of lease required (6 years)
13	MN/III/3504	Kanamai substation	Base 4m by 2m	400,000.00			
14	20700	Gede substation	Base 4m by 2m	400,000.00			
15	878	Watamu substation	Base 4m by 2m	500,000.00			
16	12800	Diani substation	Base 4m by 2m	500,000.00			
17	8363/4	Lanet, Nakuru	Base 4m by 2m	600,000.00			
18	Nyahururu Mun Blk 8/354	Nyahururu Depot	Base 4m by 2m	400,000.00			
19	Eldoret Mun Blk 8/101	Eldoret, Nandi Road	Base 4m by 2m	500,000.00			
20	Eldoret Mun Blk 7/30	Eldoret, Oloo Street	Base 4m by 2m	500,000.00			
21	Eldoret Mun Blk 2/94	Eldoret, Muyodi Street	Base 4m by 2m	500,000.00			
22	14691/407	Lodwar Power Station	Base 4m by 2m	300,000.00			

**Name of Tenderer**\_\_\_\_\_

**Signed by the Tenderer** \_\_\_\_\_

**Dated**\_\_\_\_\_

The Successful Tenderer shall be the one with the highest evaluated price same or over the reserve rent stated.

**\*NOTES: -**

1.Total tender value means the Tenderer's total tender price inclusive of Value Added Tax (V.A.T) for the annual rent offered.

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



#### **Section IV - Tendering Forms**

- i) Form of Tender
- ii) Tenderer Information Form
- iii) Tenderer JV Members Information Form
- iv) Price Schedule -Schedule of Requirements (Lease Items).
- v) Form of Tender Security – Demand Guarantee
- vi) Form of Tender Security (Insurance Guarantee)
- vii) Form of Tender- Securing Declaration
- viii) Owner's Authorization

#### **Other Forms to be completed**

- i) Tenderer's Eligibility- Confidential Business Questionnaire
- ii) Certificate of Independent Tender Determination
- iii) Self-Declaration Form
- iv) Appendix 1- Fraud and Corruption

## FORM OF TENDER

**To:**

The Kenya Power & Lighting Company PLC,  
Electricity House,  
Aga Khan Walk,  
P.O Box 30099 – 00100,  
Nairobi, Kenya.

### *INSTRUCTIONS TO TENDERERS*

- a) *The Tenderer must fill this form of tender.*
- b) *All italicized text is to help Tenderer in preparing this form.*
- c) *Tenderer must complete and sign and TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE, CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER, all attached to this Form of Tender.*
- d) *The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.*
  - i) Tenderer's Eligibility-Confidential Business Questionnaire
  - ii) Certificate of Independent Tender Determination
  - iii) Self-Declaration of the Tenderer

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

**Tender Name**.....

**Tender Identification (Ref No):**.....  
[insert identification]

**To:** .....  
[insert complete name of Procuring Entity- i.e Kenya Power & Lighting Company Plc]

- a) **No reservations:** We have examined and have no reservations to the Tendering document, including Addenda issued in accordance with Instructions to tenderers (ITT 7);
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3;
- c) **Tender/Proposal- Securing Declaration:**  
We have not been debarred by the Authority based on execution of a Tender-Securing Declaration or Tender Securing Declaration in Kenya in accordance with ITT 3.7;
- d) **Conformity:** We offer to lease in conformity with the Tendering Document and in accordance with the lease periods, the premises specified in the Schedule below:


- e) **Discounts:** The discounts offered and the methodology for their application are:
- The discounts offered are: ***Not Applicable***
  - The exact method of calculations to determine the net price after application of discounts are shown below: ***Not applicable***
- f) **Tender Validity Period:** Our Tender shall be valid for **.....180 .....**days as specified in TDS 17.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 21.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period. **(N/B KPLC requires validity period of 180 days).**
- g) **Suspension and Debarment:** We, along with any of our subcontractors, Lessors, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by KPLC. Further, we are not ineligible under the Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;
- h) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state- owned enterprise or institution]/ [We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];*
- i) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- j) **Procuring Entity Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive; and
- k) **Fraud and Corruption:** We here by certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- l) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- q) **Code of Ethical Conduct:** We undertake to adhere by the Code of Ethical Conduct for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from ***www.pppra.go.ke*** during the procurement process and the execution of any resulting contract.
- r) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.
  - Certificate of Independent Tender Determination – to declare that we completed the tender

without colluding with other tenderers.

- iii) Self-Declaration of the Tenderer—to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
- iv) Declaration and commitment to the code of ethics for Persons Participating in Public Procurement and Asset Disposal Activities in Kenya,

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in

**“Appendix 1- Fraud and Corruption”** attached to the Form of Tender.

**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]

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

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

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

\*: In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as tenderer.

\*\*: Person signing the Tender shall have the power of attorney given by the tenderer. The power of attorney shall be attached with the Tender Schedules

## TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE

### Instruction to Tenderer

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

#### a) Tenderer's details

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	The Kenya Power & Lighting Company PLC
2	Name of the Tenderer	
3	Full Address and Contact Details of the Tenderer.	1. Country..... 2. City ..... 3. Location..... 4. Building..... 5. Floor ..... 6. Postal Address ..... 7. Name and email of contact person..... ..... .
4	Description of Nature of Business	
5	Maximum value of business which the Tenderer handles.	
6	State if Tenders Company is listed in stock exchange, give name and full address ( <i>postal and physical addresses, email, and telephone number</i> ) of state which stock exchange	

### General and Specific Details

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

Name in full \_\_\_\_\_ Age \_\_\_\_\_  
 Nationality \_\_\_\_\_ Country of Origin \_\_\_\_\_  
 Citizenship \_\_\_\_\_

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

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

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

I) Private or public

Company.....

ii) State the nominal and issued capital of the Company: -

Nominal Kenya Shillings

(Equivalent).....

Issued Kenya Shillings

(Equivalent).....

iii) Give details of Directors as follows.

	<b>Names of Director</b>	<b>Nationality</b>	<b>Citizenship</b>	<b>% Shares owned</b>
1				
2				
3				

**e) DISCLOSURE OF INTEREST - Interest of the Firm in KPLC.**

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

If yes, provide details as follows.

	<b>Names of Person</b>	<b>Designation in KPLC</b>	<b>Interest or Relationship with Tenderer</b>
1			
2			
3			

**ii) Conflict of interest disclosure**

	<b>Type of Conflict</b>	<b>Disclosure YES OR NO</b>	<b>If YES provide details of the relationship with Tenderer</b>
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of KPLC regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of KPLC who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of KPLC who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to KPLC throughout the tendering process and execution of the Contract.		

**f) Certification**

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

Full Name \_\_\_\_\_

Title or Designation \_\_\_\_\_

(Signature) \_\_\_\_\_

(Date) \_\_\_\_\_

## CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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

I certify, on behalf of \_\_\_\_\_ [Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - a) Has been requested to submit a Tender in response to this request for tenders;
  - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
  - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
  - b) The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs (5) (a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - a) prices;
  - b) methods, factors or formulas used to calculate prices;
  - c) the intention or decision to submit, or not to submit, a tender; or
  - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5) (b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5) (b) above;
8. The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5) (b) above.

Name \_\_\_\_\_  
Title \_\_\_\_\_



Date \_\_\_\_\_

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

## SELF-DECLARATION FORMS

### FORM SD1

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

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

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

.....  
..... (Title)  
(Signature)

(Date)

Bidder's Official Stamp

## FORM SD2

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

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

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of.....  
..... (*insert name of the Company*) who is a Bidder in respect of **Tender No.** ..... for  
..... (*insert tender title/description*) for ..... (*insert name of KPLC*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*insert name of KPLC*) which is KPLC.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*name of KPLC*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
5. THAT what is deponed to here in above is true to the best of my knowledge information and belief.

.....  
..... (Title)  
(Signature)

(Date)

Bidder's Official Stamp

## DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

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

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

Name of Authorized  
signatory.....  
Sign.....  
.....

Position.....  
.....

Office address.....  
Telephone..... E-  
mail.....  
Name of the Firm/Company.....

Date.....

*(Company Seal/ Rubber Stamp where applicable)*

Witness  
Name.....  
.....  
Sign.....

Date.....

## APPENDIX 1- FRAUD AND CORRUPTION

*(Appendix 1 shall not be modified)*

### 1. Purpose

- 1.1 The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

### 2. Requirements

- 2.1 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.
- 2.2 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:
  1. A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
  2. A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
  3. Without limiting the generality of the subsection (1) and(2), the person shall be—
    - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
    - b) if a contract has already been entered into with the person, the contract shall be voidable;
  4. The voiding of a contract by KPLC under subsection (7) does not limit any legal remedy KPLC may have;
  5. An employee or agent of KPLC or a member of the Board or committee of KPLC who has a conflict of interest with respect to a procurement—
    - a) Shall not take part in the procurement proceedings;
    - b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
    - c) shall not be a subcontractor for the tenderer to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
  - 6 An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to KPLC;
  - 7 If a person contravenes subsection (1) with respect to a conflict of interest described in subsection

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

2.3 In compliance with Kenya's laws, regulations and policies mentioned above, KPLC:

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

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

- iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v) “obstructive practice” is:

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

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

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

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

- c) Rejects a proposal for award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub- consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other

appropriate authority appointed by Government of Kenya; and

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

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<sup>1</sup>For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in

A consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

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



## Tenderer Information Form

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

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

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

1. Tenderer's Name <i>[insert Tenderer's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Tenderer's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Tenderer's year of registration: <i>[insert Tenderer's year of registration]</i>
5. Tenderer's Address in country of registration: <i>[insert Tenderer's legal address in country of registration]</i>
6. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.1. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.1. <input type="checkbox"/> Tax Obligations for Kenyan Tenderers, attach copy of current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 4.14. <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 3.8 documents establishing: (i) Legal and financial autonomy (ii) Operation under commercial law  1. Establishing that the tenderer is not under the supervision of KPLC  2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Tenderer's JV Members Information Form

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

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

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

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1.	Tenderer's Name: <i>[insert Tenderer's legal name]</i>
2.	Tenderer's JV Member's name: <i>[insert JV's Member legal name]</i>
3.	Tenderer's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4.	Tenderer's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5.	Tenderer's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6.	Tenderer's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member authorized representative]</i>
7.	Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.1  <input type="checkbox"/> Tax Obligations for Kenyan Tenderers, attach copy of current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of KPLC, in accordance with ITT 3.8.
8.	Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## TENDER-SECURING DECLARATION FORM {r 46 and 155(2)}

*[The Bidder shall complete this Form in accordance with the instructions indicated]*

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

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

To: .....*[insert complete name of Purchaser]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of.....*[insert number of months or years]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we:- (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or(ii)fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.
3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
  - a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
  - b) Thirty days after the expiration of our Tender.
4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:.....

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

..... Name:

Duly authorized to sign the bid for and on behalf of: .....*[insert complete name of Tenderer]* Dated on ..... day of ....., ..... *[Insert date of signing]*

Seal or stamp

***[Note: In case of a Joint Venture, the Tender-Securing Declaration must be in the name of all members to the Joint Venture that submits the Tender.]***

## OWNER'S AUTHORIZATION

*[The tenderer shall require the Owner to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Owner and should be signed by a person with the proper authority to sign documents that are binding on the Owner. The tenderer shall include it in its Tender, if so indicated in the TDS.]*

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

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

To: .....*[insert complete name of Procuring Entity]* WHEREAS

We.....*[insert complete name of Manufacturer]*, who are official manufacturers of.....*[insert type of Lease Items manufactured]*, having factories at.....*[insert full address of Manufacturer's factories]*, do hereby authorize.....*[insert complete name of tenderer]* to submit a Tender the purpose of which is to provide the following Lease Items, manufactured by us *[insert name and or brief description of the Lease Items]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions of Contract, with respect to the Lease Items offered by the above firm.

Signed: .....*[insert signature(s) of authorized representative(s) of the Owner]*

Name: .....*[insert complete name(s) of authorized representative(s) of the Owner]*

Title: ..... *[insert title]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_*[insert date of signing]*

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## **PART 2 - LEASE REQUIREMENTS**

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## **SECTION VI - SCHEDULE OF REQUIREMENTS**

### **NOTES FOR PREPARING THE SCHEDULE OF REQUIREMENTS**

The Schedule of Requirements shall be included in the Tendering document by KPLC, and shall cover, at a minimum, a description of the Lease Items and services to be supplied and the delivery schedule.

The objective of the Schedule of Requirements is to provide sufficient information to enable tenderers to prepare their Tenders efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITT 42.1.

The date or period for lease should be carefully specified, considering (a) the implications of lease terms stipulated in the Instructions to tenderers; (b) the date prescribed here in from which KPLC's payment obligations start (i.e., notice of award, contract signature, opening or confirmation of the letter of credit, etc.).

**SCHEDULE OF REQUIREMENT (FULL DESCRIPTION OF PREMISES)***Fill the table below for each property bid for***Property bid for:** \_\_\_\_\_

The following is a schedule of premises for leasing out.

<b>No .</b>	<b>LR. No</b>	<b>Location</b>	<b>Availa ble size in acres</b>	<b>KPLC recommen ded use</b>	<b>Tick on areas of interest</b>	<b>Bidders proposed use</b>
1	31/9	Baba Dogo rd	2	Industrial/ Ware housing		
2	57/33	Clayworks	9.67	Commercial		
3	10060/18	National Control	2.1	Industrial/ Ware housing		
4	Ngong/Ngon g/32686	Ngong	1	Commercial		
5	Ngong/Ngon g/23716	Ngong	0.5	Commercial		
6	209/11624	Mombasa rd - Embakasi	2.9654	Industrial/ Ware housing		
7	209/12119	Mombasa rd - Imara Daima	8	Industrial/ Ware housing		
8	Loc.8/Matha rite/Kighero/ 5	Muranga	4	Agricultural		
9	Baragwe/Rai mu/3569	Kianyaga	1	Agricultural		
10	2787/447 (part)	Nanyuki Leave House - Vacant portion	2.2	Commercial		
11	2787/447 (part)	Nanyuki Leave House with 3 bedroom house	1.74	Residential		
12	23949	Thika industrial	2	Industrial/ Ware housing		
13	Lari/Kirenga /	Uplands- Kiambu	4	Industrial/ Ware housing		

No .	LR. No	Location	Available size in acres	KPLC recommended use	Tick on areas of interest	Bidders proposed use
14	MN/1/3180	Nyali	0.49	Commercial		
15	MN/SEC.VI/308	Portreitz	1.33	Industrial/Ware housing		
16	Butsotso/Shikoti/2695	Kakamega	2.2	Agricultural		
17	Plot No. 15	Rumuruti	0.69	Commercial		
18	Kajiado/Ewaso-Kedong/3349	Longonot/suswa	100	Agricultural		
19	Ksm Mun. Block 10/482 & 483	Milimani estate, Kisumu	0.1920	Commercial		

**Note: all the sites will attract a 5% escalation for the starting annual rent after every 2 years.**

**V. Schedule 2: Staff Houses available for lease**

No.	LR. No	Location	Acreage	Description	KPLC recommended use	Tick on areas of interest	Bidders proposed use
1	Nanyuki Municipality Block 9/23	Nanyuki	0.89 acres	2 Bedroomed house on 0.89 acres	Residential		
2	Nanyuki Municipality Block 9/25	Nanyuki	0.1148 acres	2 Bedroomed house on 0.1148 acres	Residential		
4	Nyeri Mun Bl. 1/261	Nyeri	0.5777 acres	4 bedroomed house with SQ on 0.5777 acres	Residential		
5	Nakuru Municipality Block 12/75 - Milimani Senior Staff Quarter	Milimani Nakuru	0.46 acres	3 bedroom house with SQ on 0.46 acres	Residential		
6	Eldoret Municipality/ Blk 8/101	Eldoret-Nandi Road	1.85 acres	3 bedroomed house with SQ on 1.85 acres	Residential		

**Note: all the sites will attract a 5% escalation for the starting annual rent after every 2 years.**



**VI. Schedule 3: Billboard sites available for lease**

<b>No.</b>	<b>Plot No.</b>	<b>Proposed Location</b>	<b>Size of land for billboard</b>	<b>Escalation</b>	<b>Tick on areas of interest</b>
1	209/12119	Villa Franca - Mombasa rd	Base 4m by 2m	5% annually	
2	209/4981	Ragati flats	Base 4m by 2m	5% annually	
3	9554	Roysambu	Base 4m by 2m	5% annually	
4	209/6502(PART)	Muthurwa Substation	Base 4m by 2m	5% annually	
5	8885	Stima Club - Thika Rd	Base 4m by 2m	5% annually	
6	209/4300/166	Pangani Staff houses	Base 4m by 2m	5% annually	
7	209/4847/7	Mbotela Estate	Base 4m by 2m	5% annually	
8	209/5949	Kiganjo lane (Bunyala Rd Nbi West)	Base 4m by 2m	5% annually	
9	Ngiriana/Merichi/2180	Kutus 132 Substation	Base 4m by 2m	5% annually	
10	8385/3	Ruiru depot	Base 4m by 2m	5% annually	
11	Embu/Mun/1498	Embu	Base 4m by 2m	5% annually	
12	Kiirua/Ruiri/699	Ruiri pole yard	Base 4m by 2m	5% annually	
13	MN/III/3504	Kanamai substation	Base 4m by 2m	5% annually	
14	20700	Gede substation	Base 4m by 2m	5% annually	
15	878	Watamu substation	Base 4m by 2m	5% annually	
16	12800	Diani substation	Base 4m by 2m	5% annually	
17	8363/4	Lanet , Nakuru	Base 4m by 2m	5% annually	
18	Nyahururu Mun Blk 8/354	Nyahururu Depot	Base 4m by 2m	5% annually	

<b>No.</b>	<b>Plot No.</b>	<b>Proposed Location</b>	<b>Size of land for billboard</b>	<b>Escalation</b>	<b>Tick on areas of interest</b>
19	Eldoret Mun Blk 8/101	Eldoret, Nandi Road	Base 4m by 2m	5% annually	
20	Eldoret Mun Blk 7/30	Eldoret, Oloo Street	Base 4m by 2m	5% annually	
21	Eldoret Mun Block 2/94	Eldoret Muyodi Street	Base 4m by 2m	5% annually	
22	14691/407	Lodwar Power Station	Base 4m by 2m	5% annually	

## 2 Technical Specifications

- 2.1 The purpose of the Technical Specifications (TS), is to define the technical characteristics of the Lease Items and Related Services required by KPLC. KPLC shall prepare the detailed TS consider that:
- i) The TS constitute the benchmarks against which KPLC will verify the technical responsiveness of Tenders and subsequently evaluate the Tenders. Therefore, well-defined TS will facilitate preparation of responsive Tenders by tenderers, as well as examination, evaluation, and comparison of the Tenders by KPLC.
  - ii) The TS shall require that all Lease Items and materials to be incorporated in the Lease Items be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided for otherwise in the contract.
  - iii) The TS shall make use of best practices. Samples of specifications from successful similar procurements in the same country or sector may provide a sound basis for drafting the TS.
  - iv) The PPRA encourages the use of metric units.
  - v) Standardizing technical specifications may be advantageous, depending on the complexity of the Lease Items and the repetitiveness of the type of procurement. Technical Specifications should be broad enough to avoid restrictions on workmanship, materials, and equipment commonly used in manufacturing similar kinds of Lease Items.
  - vi) Standards for equipment, materials, and workmanship specified in the Tendering document shall not be restrictive. Recognized international standards should be specified as much as possible. Reference to brand names, catalogue numbers, or other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. Where unavoidable, such item description should always be followed by the words “or substantially equivalent.” When other particular standards or codes of practice are referred to in the TS, whether from KPLC's or from other eligible countries, a statement should follow other authoritative standards that ensure at least a substantially equal quality, then the standards mentioned in the TS will also be acceptable.
  - vii) Reference to brand names and catalogue numbers should be avoided as far as possible; where unavoidable the words “or at least equivalent” shall always follow such references.
  - viii) Technical Specifications shall be fully descriptive of the requirements in respect of, but not limited to, the following:
    - a) Standards of materials and workmanship required for the production and manufacturing of the Lease Items.
    - b) Any sustainable procurement technical requirements shall be clearly specified.
- 2.2 The requirements to be specified shall be specific enough to not demand evaluation based on rated criteria/merit point system. Tenderers may be invited to offer Lease Items that exceeds the specified minimum sustainable procurement requirements.
- 2.3 The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, KPLC shall include an additional ad-hoc Tendering form (to be an Attachment to the Letter of Tender), where the tenderer shall provide detailed information on such technical performance characteristics in respect to the corresponding acceptable or guaranteed values.
- 2.4 When KPLC requests that the tenderer provides in its Tender a part or all of the Technical Specifications, technical schedules, or other technical information, KPLC shall specify in detail the nature and extent of the required information and the manner in which it has to be presented by the tenderer in its Tender.
- 2.5 If a summary of the Technical Specifications (TS) has to be provided, KPLC shall insert information in the table below. The tenderer shall prepare a similar table to justify compliance with the requirements.

**Summary of Technical Specifications** - The Lease Items and Related Services shall comply with following Technical Specifications and Standards:

Lease Item No	Name of Lease Items or Related Service	Technical Specifications and Standards
[insert item No]	[insert name]	[insert TS and Standards]

**Detailed Technical Specifications and Standards**.....[insert whenever necessary]. [Insert detailed description of TS]

### 3. Maintenance obligations and standards

(describe in detail how these will be handled and by which party).

### 4. Drawings

This Tendering document includes..... [insert “the following” or “no”] drawings.

[If documents shall be included, insert the following List of Drawings]

List of Drawings		
Drawing No.	Drawing Name	Purpose

## **5. Inspections and Tests**

The following inspections and tests shall be performed: *[insert list of inspections and tests]* N/A

## **PART 3 - CONTRACT**

**SECTION VII - GENERAL CONDITIONS OF CONTRACT**

**DATED**

**2020**

**LEASE**

**BETWEEN**

**THE KENYA POWER AND LIGHTING COMPANY PLC**

**AND**

.....

.....



**REPUBLIC OF KENYA**  
**THE LAND ACT (NO. 6 OF 2012)**  
**THE LAND REGISTRATION ACT (NO. 3 OF 2012)**  
**THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017**

**Date Received**

**Presentation Book**

**Official Fees Paid**

.....

No.....

**Kshs.**

**L E A S E**

**TITLE NUMBER .....**

Date of Lease	<b><u>THIS LEASE</u></b> is made the                      day of                      2020
Lessor	<b><u>THE KENYA POWER AND LIGHTING COMPANY PLC</u></b> a limited liability company having its registered office at Nairobi and whose postal address is care of Post Office Box Number 30099 – 00100 Nairobi Kenya (hereinafter called “the Lessor”) of one part (which expression includes its successors and assigns where the context so admits) ; and
Lessee	<b><u>.....</u></b> of Post Office Box Number ..... Nairobi Kenya (hereinafter called “the Lessee”) of the other part (which expression includes its successors and assigns where the context so admits)
Demised Premises	Portion      of      land      comprising      of      .....      acres      at .....
Term	.....
Rent/Stand Premium	The <b><u>annual      rent      of      Kenya      Shillings</u></b> <b><u>.....=) (VAT Exclusive)</u></b> is subject to ..... annual escalation, payable annually in advance and clear of all deductions.
Security Deposit	The <b>Lessee has deposited with the Landlord a security deposit equivalent to one (1) year’s rent of Kenya Shillings .....</b> , receipt of <b>which the landlord hereby duly acknowledges.</b>  This deposit will be retained by the Landlord as security for the due performance by the tenant of his obligations under this lease. The deposit is refundable without interest after the expiry of this lease and delivery up of the premises in accordance with the covenants contained in this Lease.
Service Charge	No provision on service charge.

**WHEREAS**

A. The Lessor is registered as proprietor of **ALL THAT** piece of Land situated in ..... County known  
**L.R. No. ....**

- B. The Lessor has agreed to lease to the Lessee a portion of land on the entire parcel measuring approximately ..... acres on the southern side of the parcel adjacent to the oil tanks for purposes of a vehicle parking, loading yard and incidental activities. (hereinafter referred to as the **'Premises'**) subject to the covenants agreements conditions and restrictions stipulations and provisions hereinafter contained.
- C. The Lessor has agreed with the Lessee, to grant to the Lessee, the Premises for a term of ..... years renewable from ..... (hereinafter called "**The Term**") SUBJECT nevertheless to determination as herein provided yielding and paying therefore and thereat during the Term an annual rent as hereinbefore provided SUBJECT to the following terms and conditions:

## **NOW THIS LEASE WITNESSES**

### **1. THE LESSEE HEREBY COVENANTS WITH THE LESSOR as follows:**

To pay the rent hereby reserved clear of all deductions at the times and in the manner aforesaid.

The Lessee shall comply with all Legislation and Regulations subsisting in Kenya and made by any duly constituted authority in relation to its use of the Premises, including but not limited to those relating to the environment, health and safety and with any provisions contained in any policy of insurance relating to the Premises.

The Lessee shall ensure that its development on the premises is of a temporary nature and shall ensure that such development is in compliance with all laws and regulations prescribed by the Nairobi county and subsisting in Kenya.

The Lessee shall do nothing nor permit or suffer the doing of anything on the Premises to interfere with, disrupt or otherwise adversely affect any adjacent land including any rights held by third parties or to which third parties are otherwise entitled or anything that may become a nuisance or annoyance to the occupiers of adjacent land.

To use the Premises for purposes in connection with and incidental to the Lessee's business for the purposes of a vehicle parking, loading yard and incidental activities and not to use the Premises for any other purpose whatsoever without prior written consent of the Lessor first had and obtained.

Not to do or permit to be done anything whereby the policy or policies of insurance of the Premises may become void or voidable or whereby the premiums thereon may be increased AND forthwith to notify the Lessor of the destruction or any damage thereto or of any proposed period of unoccupancy of the Premises in excess of that permitted by the policy or policies of the Lessor PROVIDED that should there be such destruction, the Lessee shall indemnify the Lessor of such damage/destruction and loss.

Not to assign transfer sub-let or part with possession of the Premises or any part thereof without the written consent of the Lessor first had and obtained.

Within seven (7) days of notice thereof to give full particulars to the Lessor of any notice order or proposal therefore given under any Act or any rule regulation order or direction thereunder or under the By-Laws of any competent authority.

At all times during the continuance of the term to comply with all laws Acts Rules Regulations or By-laws enacted passed made or issued by the National Government or any County Government in relation to the Premises AND to obtain all such licences and to do and execute or cause to be done or executed all such works and things as under or by virtue of any Act Rule, Regulations or By-laws as aforesaid or under any notice order or direction given or made pursuant thereto for the time being in force are or shall be directed or necessary to be obtained done or executed in respect of or upon the Premises or any part

thereof whether by owner or occupier in consequence of the user of the Premises for the purposes authorised by this Lease.

Take out an insurance of their developments.

2. **THE LESSOR HEREBY COVENANTS WITH THE LESSEE** as follows:-

To pay all rates taxes charges land rents and outgoings whatsoever which now are or hereafter may become payable in respect of the Premises or any part thereof.

The Lessor shall allow the Lessee free and unobstructed access to the Premises for purposes connected to and incidental to the Tenant's business only pursuant to the Lease.

The Lessor shall allow the Lessee's authorised representatives, sub-contractors, professional team as well as their vehicles and equipment free and unobstructed access and shall obtain all necessary authorisation and approvals for entrance and egress to the Premises for the Lessee PROVIDED that such access shall be subject to the Lessor's right to monitor entry into the by any person into the Premises generally and all persons entering the Premises shall be required to identify themselves and to be subject to any security measures in place by the Lessor.

The Lessor shall procure that it shall do nothing that may be inconsistent with the Lessee's rights as sole Lessee over the Premises for the duration of the Term and as such the Lessor may regulate the access, entry into and use of the Premises by any of its authorised representatives or third parties in accordance with this Lease.

That the Lessee paying the rent hereby reserved and performing the several covenants and stipulations on the part of the Lessee herein contained or implied shall peaceably hold and enjoy the Premises during the said term without any interruption by the Landlord;

3. **PROVIDED ALWAYS AND IT IS HEREBY AGREED AND DECLARED THAT;**

The Lessor shall not be liable for any loss or damage or injury to the Lessee, its servants or licensees caused by any defect in or defective or negligent or other part of the equipment or structure of the Transmission Substation or by any lack or shortage of electricity the Tenant shall indemnify the Less against all actions proceedings costs claims demands and expenses whatsoever and howsoever arising by its servants licensees and others claiming through it in respect of such damage or injury;

Any notice under this Lease shall be in writing and may be served on the Lessor if sent by registered post to its registered office or recorded delivery service to such premises or place or served on the Lessee by sending it by registered post to the last known address or recorded delivery service to such premises or place. A notice sent by post shall under this Lease be deemed to have been given fourteen (14) days after the date of posting thereof.

Removal of additional erections, fixtures; the Lessee may on determination or sooner determination of the Term sever, remove and repossess any erections fixtures or additions erected or made by it at its own cost upon or to the premises doing as little injury as may be to the premises by such removal and making good such damage as may unavoidably be done.

If at the expiry of the Term the Lessee wishes to obtain a further lease of the Premises, the Lessee shall signify such desire by notice in writing delivered to the Lessor at least three (3) months before the expiry of the Term and if there is at the date of the said notice no outstanding breach of the covenants and agreements herein contained and on the part of the Lessee to be performed and observed then the Lessor may renew the lease on such terms and conditions as would be mutually agreed. Provided that, at all times, the Lessor shall not unreasonably decline to renew the lease to the Lessee.

4. **WARRANTIES**

The Lessor warrants that it has legal title to the land and Premises and is duly authorized to grant this

Lease.

5. **GOVERNING LAW AND DISPUTE RESOLUTION**

This Lease shall be governed by the Laws of Kenya and where any terms of the Lease are in conflict with any existing Kenyan law, the Parties shall negotiate in good faith towards a mutually acceptable replacement of any term that is in conflict with the said law and amend this Lease accordingly.

The Parties 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. If, after sixty (60) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may resort to resolution before a recognized local forum for the resolution of disputes.

6. **GENERAL**

Nothing in this Lease shall be deemed to constitute a partnership or joint venture between the parties or constitute any party the agent of the other for any purpose whatsoever.

The Lessee shall not cede, assign, transfer, encumber or delegate any of its rights or obligations under this Lease without the prior written consent of the Lessor.

The Parties undertake generally to work in the closest cooperation and with utmost good faith with each other in regard to all matters relating to this Lease and for the carrying out and giving effect to the provisions of this Lease.

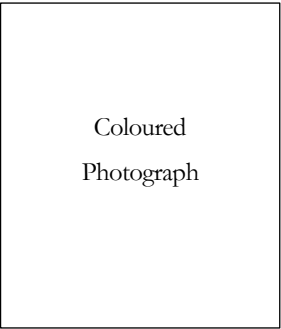
Any amendment, change, addition, deletion or variation howsoever to this Agreement shall only be valid and effective where expressed in writing and signed by both parties;

**AND** the Parties hereby accept this Lease subject to the above conditions covenants agreements, restrictions, stipulations and provisions.

**IN WITNESS** this Lease has been duly executed as a deed by the parties hereto.

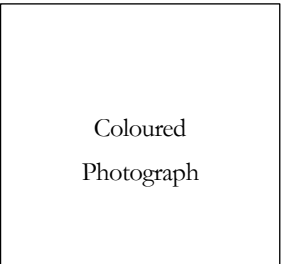
SIGNED and SEALED with the Common Seal of the Lessor  
**THE KENYA POWER & LIGHTING COMPANY PLC**

**Managing Director & CEO**



Name: ..... )  
ID/Passport No: ..... )  
PIN No: ..... )  
Signature: ..... )

**General Manager Corporate Affairs and Company Secretary**



)  
 )  
 )  
 )  
 )  
 Name: ..... )  
 ID/Passport No: ..... )  
 PIN No: ..... )  
 Signature: ..... )

Person Certifying the Execution

Certificate of Verification under Section 45 of the Land Registration Act
<p>I CERTIFY that .....and .....            being the persons witnessing the affixing of the Common Seal of the Lessor appeared before me on            ..... and being known to me/being identified by            *..... of ..... acknowledged the above            signatures or marks to be theirs and that they had freely and voluntarily executed this instrument and            understood its contents.</p> <p>.....  <i>Name and signature of person certifying</i></p>

SIGNED and SEALED with the Common Seal of the Lessee

.....

**Director** )

Coloured Photograph

)  
 )  
 )  
 )  
 )  
 Name: ..... )  
 ID/P: ..... )  
 PIN No: ..... )  
 Signature: ..... )

.....

Coloured Photograph

)  
 )  
 )  
 )  
 )  
 Name: ..... )  
 ID/P: ..... )  
 PIN: ..... )  
 Signature: ..... )

Person Certifying the Execution

Certificate of Verification under Section 45 of the Land Registration Act
<p>I CERTIFY that .....and .....            being the persons witnessing the affixing of the Common Seal of the Lessee appeared before me on            ..... and being known to me/being identified by            *..... of ..... acknowledged the above</p>

signatures or marks to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.

.....

*Name and signature of person certifying*

REGISTERED this ..... day of ..... 20.....

Seal. ....

LAND REGISTRAR

Name: ..... Registrar's Stamp / No .....

Signature: .....

## Section VIII - Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and/or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

*[KPLC shall select insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics],*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>GCC 1.1(h)</b>	The procuring entity is: The Kenya Power & Lighting Company PLC Stima Plaza P.O. Box 30099-00100, Nairobi, <u>Kenya.</u>
<b>GCC 2.1</b>	The contract shall be in the form of the Lessor's standard lease document (attached as appendix ...)
<b>GCC 5.1</b>	For <b><u>notices</u></b> , KPLC's address shall be: Attention: General Manager, Supply Chain & Logistics The Kenya Power and Lighting Company PLC Stima Plaza, 3rd Floor Kolobot Road, Parklands P.O Box 30099 - 00100 Nairobi.
<b>GCC 7.2</b>	In the case of a dispute between KPLC and the Lessee who is a national of Kenya, the dispute shall be referred to arbitration in accordance with the laws of Kenya
<b>GCC 12.1</b>	The rent charged for the Leased spaces/land <i>shall</i> be adjustable based on the escalation rates stipulated in the TDS
<b>GCC 13.2</b>	Rent shall be paid Annually in advance at the commencement of each rent payment cycle
<b>GCC 13.3</b>	The Lessor may terminate the contract if the Lessee fails to pay all amounts due within <u>90</u> days.
<b>GCC 13.5</b>	Rent is to be paid in advance and is due on the first day of the period billed. KPLC credit period is 30 days after submission date of invoice or rent due date whichever comes first.
	The payment-delay period after which Lessee shall pay interest to the KPLC shall be 30 days. The interest rate that shall be applied is 10 % per month
<b>GCC 14.1</b>	The rent quoted shall be net exclusive of VAT
<b>GCC 15.1</b>	A Performance Security <b>shall be required.</b> <b>The lessees shall be required to pay, a non-interest bearing refundable rent security deposit equivalent to the highest annual rent payable under the lease term. The rent security deposit shall be held for the entire period of the lease term..</b>
<b>GCC 15.4</b>	Discharge of Performance security (security deposit) shall take place upon expiry of the lease term and handover of the premises by the lessee to the lessor in good satisfactory condition.
<b>GCC 17.3</b>	KPLC and/or Lessee shall share information with following arms of Government or other bodies if demanded: Kenya Revenue Authority, Security Agencies

<b>Number of GC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>GCC 22</b>	<ol style="list-style-type: none"> <li>1. The lessee shall submit detailed drawings of proposed improvements and alterations for approval by lessor prior to commencement of works. The drawings of the proposed works shall be accompanied by the restoration and reinstatement plan upon expiry of the lease.</li> <li>2. The proposed use of land shall be compatible to existing uses and not injurious or cause nuisance to existing KPLC uses.</li> </ol>
<b>GCC 24.1</b>	The liquidated damage shall not apply
<b>GCC 31</b>	Lease renewal shall be considered only if the space/land shall not be required for immediate use by KPLC. Where the space will be available for renewal, the renewal will be on new terms.





## **SECTION IX - CONTRACT FORMS**

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful tenderer after contract award.

### **Table of Forms**

Notification of Intention to Award

Request for Review

Letter of Award

Contract Agreement

Advance Payment Security

Beneficial Ownership Disclosure

## FORM No 1: NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to the Tenderer's Authorized Representative named in the 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) Procuring Entity: .....[insert the name of KPLC]
- 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.

Lease Item N°	Description of Lease Item and Related Services.	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) Business Days 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]*
  - iii) Agency: *[insert name of Procuring Entity]*
  - iv) 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 Procuring Entity]*
  - 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 ten (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 KPLC:

Signature: \_\_\_\_\_ Name: \_\_\_\_\_ Title/position: \_\_\_\_\_ Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

**FORM NO. 2 - REQUEST FOR REVIEW**

**FORM FOR REVIEW(r.203(1))**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

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

**BETWEEN**

**.....APPLICANT**

**AND**

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

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

**REQUEST FOR REVIEW**

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

- 1.
- 2.

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

- 1.
- 2.

SIGNED .....(Applicant) Dated on.....day of ...../...20.....

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FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on.....day of .....20.....

**SIGNED**

**Board Secretary**

**FORM NO 3: LETTER OF AWARD**

*[letter head paper of KPLC]*

.....*[date]*

To: .....*[name and address of the Contractor]*

This is to notify you that your Tender dated *[date]* for execution of the..... *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount..... *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by..... *(name of Procuring Entity)*.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature: .....

Name and Title of Signatory: .....

Name of Procuring Entity: .....

Attachment: *Contract Agreement*

## FORM NO. 4 LETTER OF AWARD

*[use letterhead paper of KPLC]*

.....*[date]*

To: .....*[name and address of the Lessor]*

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

This is to notify you that your Tender dated.....*[insert date]* for the Lease Items on the list below is hereby accepted by our Agency.

### **OFFERED ITEMS AND PRICES**

<b>1</b>	<b>2</b>	<b>3</b>
<b>Lease Item N°</b>	<b>Description of Lease Item and Related Services.</b>	<b>Tender Price</b>
1		
2		
3		
4		
<b>Total Tender Price</b>		<b>Xxxx</b>

You are requested to furnish the Performance Security within 28 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 Title of Signatory: .....

Name of Agency: .....

**Attachment: Contract Agreement**



## FORM NO 5 - 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] (herein after called “Procuring Entity”), of the one part;*  
and
- (2) *[insert name of Lessor]*, a corporation incorporated under the laws of *[insert: country of Lessor]* and having its principal place of business at *[insert: address of Lessor]* (herein after called “the Lessor”), of the other part.
3. WHEREAS KPLC invited Tenders for certain Lease Items and ancillary services, viz., *[insert brief description of Lease Items and Services]* and has accepted a Tender by the Lessee for the supply of those Lease Items and Services, for the sum of ..... ((KPLC Supply Chain – Procurement Department specify the total amount in words which should include any payable taxes, duties and insurance where applicable e.g. Value Added Tax) (hereinafter called “the Contract Price”). KPLC and the Lessee 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 KPLC to the Lessee as specified in this Agreement, the Lessee hereby covenants with KPLC to provide the Lease Items and Services and to remedy defects the rein inconformity in all respects with the provisions of the Contract.
4. KPLC hereby covenants to pay the Lessee in consideration of the provision of the Lease Items 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.
5. 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 KPLC

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 Lessee Signed: .....*[insert signature of authorized representative(s) of the Lessor]*

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

in the presence of .....*[insert identification of official witness]*

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

CONFIRMATION OF SITE VISIT

TENDER NO. KP1/9A.2/OT/050/ADMIN/23-24

PROPOSED LEASING OUT OF SURPLUS SPACES ON VARIOUS COMPANY OWNED PARCELS  
OF LAND

DATE: .....

TIME: .....

Region.....Specify property .....

Name of Tenderer.....

Name, position and signature of the Tenderer's staff visiting the site.

Name:.....

Position.....

Qualification.....

Signature..... Tenderer's Official Stamp.....

Site Visit conducted by Kenya Power Authorised Officer's

Name .....

Designation .....

Signature.....

