

Rural Electrification and Renewable Energy Corporation

Rural Electrification and Renewable Energy Corporation

Ground Floor, Kawi House, South C
P.O. 34585 – 00100
NAIROBI, KENYA

Tel: +254 20 4953000, 4953600

E-mail: procurement@rea.co.ke

Fax: +254 20 2710944

Website: www.rea.co.ke

TENDER NO. 1000000543

**TENDER DESCRIPTION - SUPPLY OF 10M COMPOSITE
POLES – OPENS TO LOCAL MANUFACTURERS ONLY.**

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

(Tender Document for Goods - One Tender Opening System)

JANUARY, 2021

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SECTION I - INVITATION TO TENDER

1. The Rural Electrification & Renewable Energy Corporation Invites Tenders from Interested Companies to Tender for the following Materials as indicated below:

No.	RFX. No.	Items Description	Tender Closing, Opening Date & Time
1.	1000000543	Supply of 10M Composite Poles – Open to Local Manufacturers Only	29/01/2021 @10.00 a.m.

2. Tender documents detailing the requirements may be viewed at REREC E- Procurement Web Portal found on the REREC website (www.rea.co.ke) beginning on **30th December, 2021.**
3. Bidders who are interested in this tender MUST ensure that they are registered in REREC SAP SRM system and have set up their page. Please ensure compliance to the following
- Each company must have two user accounts; **Admin Account** and **Employee Account**. Ensure that the following roles are NOT ASSIGNED to the employee; Employee Administrator and Supplier Master Data manager
 - Ensure that the admin account and employee account does not share same email address
 - Ensure that the Employee user name is between 4 and 12 characters.
 - It is a Mandatory requirement that all Bid Documents/Responses shall be uploaded to the COLLABORATION ROOM in the link with “RFX Response Number: Company Name”. Bidders shall not attach their documents at any other Tab of the Portal. Attachments placed elsewhere in the portal shall be declared non-responsive and will not be evaluated.
 - Prices **MUST** be entered under item term of the RFX. The prices entered here shall be similar to the prices in the price/BoQ Schedule and shall form part of the evaluation criteria.
 - For the purpose of this tender bidding, the employee account shall be used to submit your RFX responses. Bidders who require any form of assistance on the online bidding or clarification from our office should do so strictly seven (7) before the date of tender closing.
4. Prospective bidders requiring any clarification of the tender document may notify the Procurement Manager in writing via e-mail procurement@rea.co.ke at least 7 days before tender opening. REREC will respond to all clarifications through in writing *including an explanation of the query but without identifying the source of inquiry*) and will be published in the REREC portal to be accessed by all prospective bidders before tender closing.
5. Completed Tenders are to be saved as PDF documents marked with RFX description to be submitted through the REREC E-Procurement Web Portal found on the REREC website (www.rea.co.ke) so as to be received on or before the dates in the schedule above at 10.00am.
6. Tenders will be opened electronically promptly thereafter in the presence of the Tenderer’s or their representatives who choose to attend in REREC Procurement Office at Kawi House.
7. Interested bidders are advised to visit the Corporation’s website, homepage, Information Center, SAP SRM Document, SAP SRM Supplier User Guide for registration and creation of their portal and Supplier Bidding Quick Reference Guide for submitting their response.

CHIEF EXECUTIVE OFFICER

RURAL ELECTRIFICATION & RENEWABLE ENERGY CORPORATION

SECTION II - Tender Submission Checklist

A. Tender Submission Format –

This order and arrangement shall be considered as the Tender Submission Format, Please use the evaluation criteria for comprehensive requirements for this tender.

No.	Item	Tick Where Provided
1.	Tender Security	
2.	Company or Firm's Registration Certificate	
3.	CR12 not more than 3 months old from date of Tender Closing	
4.	E-PIN Certificate	
5.	Valid Tax Compliance Certificate	
6.	Power of Attorney granted by the tenderer.	
7.	Letter of Application	
8.	Form of Tender	
9.	Price Schedule(s)	
10.	Schedule of Requirements & Delivery	
11.	Declaration Form	
12.	Self-declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act	
13.	Self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice	
14.	Confidential Business Questionnaire (CBQ) for the bidder	
15.	Manufacturer's Warranty	
16.	Manufacturers Contact Details Form	
17.	QMS ISO Certificates or for locally manufactured or produced goods, valid Standardization Mark Certificates from the Kenya Bureau of Standards (KEBS) and any other Product Quality Certificates.	
18.	Type Test Certificates and their Reports and or Test Certificates and their Reports.	
19.	ISO/ IEC 17025 Accreditation Certificate.	
20.	Schedule of Guaranteed Technical Particulars	
21.	Catalogues, Brochures and Manufacturer's drawings	
22.	Statement on Deviations	
23.	Two Names with full contact as well as physical addresses of previous customers of similar goods	
24.	Current Audited Financial Statements for the last three (3) years	

NOTES TO TENDERERS

- Valid Tax Compliance Certificate shall be one issued by the relevant tax authorities and valid for at least up to the tender closing date. All Kenyan registered Tenderers must provide a valid Tax Compliance Certificate.
- All Kenyan registered Tenderers must provide the Electronic Personal Identification Number Certificate (E-PIN Certificate).

SECTION III - Instructions to Tenderers

3.1 Definitions

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

- a) *Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.*
- b) *“Date of Tender Document” shall begin with the first day and end on the last day of the month appearing on the cover page of the Tender Document.*
- c) *“Day” means calendar day and “month” means calendar month.*
- d) *“KEBS” wherever appearing means the Kenya Bureau of Standards or its successor(s) and assign(s) where the context so admits.*
- e) *“PPRA” wherever appearing means The Public Procurement regulatory Authority or its successor(s) and assign(s) where the context so admits.*
- f) *Reference to “the tender” or the “Tender Document” includes its appendices and documents mentioned hereunder and any reference to this tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time.*
- g) *“The Procuring Entity” means The **Rural Electrification and Renewable Energy Corporation** or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as **REREC**).*
- h) *“The Tenderer” means the person(s) submitting its Tender for the supply, installation and commissioning (where applicable) of the goods in response to the Invitation to Tender.*
 - i) *Where there are two or more persons included in the expression the “Tenderer”, any act or default or omission by the Tenderer shall be deemed to be an act, default or omission by any one or more of such persons.*
 - j) *words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.*
 - k) *words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the “Tenderer” the covenants, agreements and obligations expressed to be made or performed by the Tenderer shall be deemed to be made or performed by such persons jointly and severally.*

3.2 Eligible Tenderers

- 3.2.1 This Invitation to Tender is open to all Tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful Tenderers shall supply the goods in accordance with this tender and the ensuing contract.
- 3.2.2 Notwithstanding any other provisions of this tender, the following are not eligible to participate in the tender:-
 - a) REREC’s employees, its Board or any of its committee members.
 - b) Any Minister or Assistant Minister of the Government of the Republic of Kenya (GoK).
 - c) Any public servant of GoK.
 - d) Any member of a Board or Committee or any department of GoK.
 - e) Any person appointed to any position by the President of Kenya.
 - f) Any person appointed to any position by any Minister of GoK.

- 3.2.3 For the purposes of this paragraph, any relative i.e. spouse(s) and child (ren) of any person mentioned in sub-paragraph 3.2.2 is also ineligible to participate in the tender. In addition, a Minister shall include the President, Vice-President or the Attorney General of GoK.
- 3.2.4 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 REREC's to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation to Tender.
- 3.2.5 Tenderers shall not be under declarations of ineligibility for corrupt, fraudulent practices and are not amongst persons mentioned in sub-paragraphs 3.2.2 and 3.2.3 above.
- 3.2.6 Tenderers who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section IX.
- 3.2.7 Those that are under the Declaration for corrupt and fraudulent practices whether currently or in the past shall not complete the Form. They will submit a suitable Form giving details, the nature and present status of their circumstances.

3.3 Eligible Goods

- 3.3.1 All goods to be supplied under the contract shall have their origin in eligible source countries. These countries are as described in the Appendix to Instructions to Tenderers.
- 3.3.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.
- 3.3.3 The origin of goods is distinct from the nationality of the Tenderer.

3.4 Cost of Tendering

- 3.4.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and REREC's will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 3.4.2 This is an e-procurement tender and no prices are charged for the documents.

3.5 Contents of the Tender Document

- 3.5.1 The Tender Document comprises the documents listed below and Addendum (where applicable) issued in accordance with paragraph 3.7 of these Instructions to Tenderers: -
- a) *Invitation to Tender*
 - b) *Tender Submission Checklist*
 - c) *Instructions to Tenderers*
 - d) *Appendix to Instructions to Tenderers*
 - e) *Schedule of Requirements*
 - f) *Price Schedule for Goods*
 - g) *Summary of the Evaluation Process*
 - h) *General Conditions of Contract*
 - i) *Special Conditions of Contract*
 - j) *Letter of Application*
 - k) *Tender Form*
 - l) *Confidential Business Questionnaire Form*

- m) *Tender Security Form*
- n) *Manufacturer's Authorization Form*
- o) *Declaration Form*
- p) *Contract Form*
- q) *Performance Security Form*
- r) *Technical Specifications*
 - (i) *General Requirements*
 - (ii.) *Detailed Technical Specifications*

3.5.2 The Tenderer is expected to examine all instructions, forms, provisions, terms and specifications in the Tender Document. Failure to furnish all information required by the Tender Document or to submit a tender not substantially responsive to the Tender Document in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

3.5.3 All recipients of the documents for the proposed Contract for the purpose of submitting a tender (*whether they submit a tender or not*) shall treat the details of the documents as "Private and Confidential".

3.6 Clarification of Documents

3.6.1 A prospective Tenderer requiring any clarification of the Tender Document may notify the Procurement Manager in writing or by post at REREC's address indicated in the Invitation to Tender. REREC will respond in writing to any request for clarification of the Tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of Tenders, prescribed by REREC's. Written copies of REREC's response (*including an explanation of the query but without identifying the source of inquiry*) will be sent to all prospective Tenderers that have duly received the Tender Document.

3.6.2 REREC shall reply to any clarifications sought by the Tenderer within three (3) days of receiving the request to enable the Tenderer make timely submission of its Tender.

3.6.3 If a prospective Tenderer sends an inquiry after the stated days or the inquiry is received by REREC after the stated days, REREC shall have the option of responding to the inquiry and/or extension of the date of submission of tenders or ignoring it.

3.7 Amendment of Documents

3.7.1 At any time prior to the deadline for submission of Tenders, REREC, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the tender documents by amendment.

3.7.2 All prospective Tenderers that have received the Tender Documents will be notified of the amendment(s) (*hereinafter referred to or otherwise known as addendum*) in writing and will be binding on them.

3.7.3 In order to allow prospective Tenderers reasonable time in which to take the amendment into account in preparing their Tenders, REREC, at its discretion, may extend the deadline for the submission of Tenders.

3.8 Language of Tender

The Tender prepared by the Tenderer, as well as all correspondence and documents relating to the tender, exchanged between the Tenderer and REREC, shall be written in English language, provided that any printed literature furnished by the Tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the Tender, the English translation shall govern. The English translation shall be on the Tenderer's letterhead and shall be signed by the duly authorized signatory signing the Tender and stamped with the Tenderer's stamp.

3.9 Documents Comprising the Tender

The Tender prepared and submitted by the Tenderer shall include but not be Limited to all the following components: -

- a) *Declaration Form, Tender Form and a Price Schedule completed in compliance with paragraphs 3.2, 3.10, 3.11 and 3.12.*
- b) *Documentary evidence established in accordance with paragraph 3.13 that the Tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted.*
- c) *Documentary evidence established in accordance with paragraph 3.14 that the goods and ancillary services to be supplied by the Tenderer are eligible goods and services and conform to the tender documents, and,*
- d) *Tender Security furnished in accordance with paragraph 3.17*
- e) *A detailed list of previous customers as prescribed for similar items on tender and their contact addresses shall be submitted with the Tender for the purpose of reference, or for evaluation where the technical specifications so dictate.*

3.10 Tender Form

The Tenderer shall complete and sign the Tender Form and all other documents furnished in the Tender Document, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices amongst other information required.

3.11 Tender Prices

- 3.11.1 The Tenderer shall indicate on the appropriate Price Schedule, the unit prices and total tender price of the goods it proposes to supply under the contract.
- 3.11.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises (where applicable) of REREC or other specified site.
- 3.11.3. For the avoidance of doubt, Tenderers shall quote on Delivered Duty Paid (DDP) basis. No other basis shall be accepted for evaluation, award or otherwise.
- 3.11.4 Tender prices to be submitted (quoted) by the Tenderer shall remain fixed for the contract duration.
- 3.11.5 A price that is derived by a disclosed incorporation or usage of an internationally accepted standard formula shall be acceptable within the meaning of this paragraph.

3.12 Tender Currencies

- 3.12.1 For goods that the Tenderer will supply from within or outside Kenya, the prices shall be quoted in Kenya Shillings, or in another freely convertible currency in Kenya. The currency quoted must be indicated clearly on the Price Schedule of Goods.
- 3.12.2 The exchange rate to be used for currency conversion shall be the Central Bank of Kenya selling rate ruling on the Tender closing date. (Please visit the Central Bank of Kenya website).

3.13 Tenderer's Eligibility and Qualifications

- 3.13.1 Pursuant to paragraph 3.2, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to tender and its qualifications to perform the contract if its Tender is accepted.
- 3.13.2 The documentary evidence of the Tenderer's eligibility to tender shall establish to REREC's satisfaction that the Tenderer, at the time of submission of its Tender, is from an eligible source country as defined under paragraph 3.2
- 3.13.3 The documentary evidence of the Tenderer's qualifications to perform the contract if its Tender is accepted shall be established to REREC's satisfaction –
- a) *that, in the case of a Tenderer offering to supply goods under the contract which the Tenderer did not manufacture or otherwise produce, the Tenderer has been duly authorized by the goods' manufacturer or producer to supply the goods. The authorization shall strictly be in the form and content as prescribed in the Manufacturer's Authorization Form in the Tender Document.*
 - b) *that the Tenderer has the financial capability necessary to perform the contract. The Tenderer shall be required to provide the documents as specified in the Appendix to Instructions to Tenderers including a current Tax Compliance Certificate issued by the relevant tax authorities.*
 - c) *that the Tenderer has the technical and production capability necessary to perform the contract.*
 - d) *that, in the case of a Tenderer not doing business within Kenya, the Tenderer is or will be (if awarded the contract) represented by an agent in Kenya equipped and able to carry out the Tenderer's maintenance, repair, spare parts and stocking obligations prescribed in the Conditions of Contract and or in the Technical Specifications.*
- 3.13.4 Tenderers with any record of unsatisfactory or default in performance obligations in any contract shall not be considered for evaluation, award or otherwise. For the avoidance of doubt, this shall include any Tenderer with unresolved case(s) in its performance obligations for more than two (2) months in any contract.

3.14 Goods Eligibility and Conformity to Tender Documents

- 3.14.1 Pursuant to paragraph 3.3 of this Section, the Tenderer shall furnish, as part of its Tender documents establishing the eligibility and conformity to the Tender Document of all goods that the Tenderer proposes to supply under the contract.

3.14.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

3.14.3 The documentary evidence of conformity of the goods to the Tender Document may be in the form of literature, drawings and data, and shall consist of: -

- a) *a detailed description of the essential technical and performance characteristics of the goods whether in brochures, catalogues, drawings or otherwise,*
- b) *a list giving full particulars, including available source and current prices of spare parts, special tools and other incidental apparatus necessary for the proper and continuing functioning of the goods for a minimum period of two (2) years, following commencement of the use of the goods by REREC's, and,*
- c) *Duly completed Schedule of Guaranteed Technical Particulars (GTP) as per Tender Specifications demonstrating substantial responsiveness of the goods and service to those specifications and, if any, a statement of deviations and exceptions to the provisions of the Technical Specifications.*

For (a), (b) and (c) above, the literature, drawings and data shall be those from the Manufacturer.

3.14.4 For goods from outside Kenya, the Tenderer shall be required to demonstrate that the goods or products conform to required standards by evidence of:

- a) A Type Test Certificate and its Reports issued by:-
 - i) *an International Testing or Standards Body or*
 - ii) *the National Testing or Standards Authority of the country of manufacture or production or*
 - iii) *an International Standards Organisation or International Electrotechnical Commission (ISO/IEC) 17025 accredited independent testing laboratory or*
 - iv) *an independent laboratory accredited by a body recognized by the International Laboratory Accreditation Co-operation (ILAC).*
- b) Where (a) above is not required in the tender specifications, a Test Certificate and its Reports issued by the National Testing or Standards Authority of the country of manufacture or production.

In both cases i.e. (a) and (b) above, the testing authority must be one that is approved by KEBS.

3.14.5 For goods manufactured or produced in Kenya, the Tenderer shall be required to demonstrate that the goods conform to required standards and specifications by evidence of:-

- a) A Type Test Certificate and its Reports issued by KEBS.
- b) Where (a) above is not required in the tender specifications, a Test Certificate and its Reports issued by KEBS or any Testing Authority approved by KEBS.

- 3.14.6 For paragraphs 3.14.4 and 3.14.5, the Tenderer shall submit with its Tender a copy of the accreditation or recognition or approval certificate, as applicable, for the testing authority from KEBS. REREC's reserves the right to subject the certificate to authentication.
- 3.14.7 Additional evidence of conformity of the goods to the Tender Document shall include sample(s) where required.
- 3.14.8 For purposes of the documentary and other evidence to be furnished pursuant to subparagraphs 3.14.3, 3.14.4 and 3.14.5 above, the Tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by REREC's in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may adopt higher standards, brand names, and or catalogue numbers in its Tender, provided that it demonstrates to REREC's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

3.15 Sample(s)

- 3.15.1 Where required in the Appendix to Instruction to Tenderers, all Tenderers must also submit sample(s) in conformity with the technical specifications securely and clearly labelled with **Not Applicable for this tender**

3.16 Warranty

- 3.16.1 Where required in the Tender, all Tenderers must also provide a Warranty that warrants that the goods to be supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender. The Warranty shall also warrant that the goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the goods under the conditions obtaining in Kenya.
- 3.16.2 The Warranty will remain valid for one (1) year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port of loading in the source country, whichever period concludes earlier.

3.17 Tender Security

- 3.17.1 Original bid security shall be deposited to the **TENDER BOX** situated at the main reception before closing date and time as specified in the invitation to tender.
- The tenderer shall furnish, as part of its Tender, a tender security for the amount specified in the Appendix to Instructions to Tenderers.
- 3.17.2 The tender security shall be either one or a combination of the following:-
- a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Tender Security Form (Bank Guarantee) in the Tender Document.

- b) For Local bidders, Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC shall be prepaid by the Tenderer. The LC must contain all the mandatory conditions of payment to REREC as prescribed in the Tender Security (Letters of Credit) provided in the Tender Document.
- 3.17.3 The tender security is required to protect REREC against the risk of the Tenderer's conduct which would warrant the security's forfeiture.
- 3.17.4 The Tender Security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be issued by a commercial bank licensed by the Central Bank of Kenya; the bank must be located in Kenya.
- 3.17.5 The Tender Security shall be valid for thirty (30) days beyond the validity of the tender.
- 3.17.6 REREC shall seek authentication of the Tender Security from the issuing bank. It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the bank within this period, such Tenderer's Tender Security may be deemed as invalid and the bid rejected.
- 3.17.7 Any Tender not secured in accordance with this paragraph will be rejected by REREC as non-responsive, pursuant to paragraph 3.28.
- 3.17.8 The unsuccessful Tenderer's Tender Security will be released as promptly as possible, in any of the following circumstances: -
- a) *the procurement proceedings are terminated*
 - b) *REREC determines that none of the submitted Tenders is responsive*
 - c) *a contract for the procurement is entered into*
 - d) *the Tenderer does not qualify for Financial Evaluation in accordance with paragraph 3.31.*
- 3.17.9 The successful Tenderer's Tender Security will be released upon the successful Tenderer's signing the contract, pursuant to paragraph 3.39 and furnishing an authentic Performance Security, pursuant to paragraph 3.40.
- 3.17.10 The Tender Security shall be forfeited –
- a) *if the Tenderer withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which the Tenders must remain valid*
 - b) *if the Tenderer rejects a correction of an arithmetic error*
 - c) *if the Tenderer fails to enter into a written contract in accordance with paragraph 3.39*
 - d) *if the successful Tenderer fails to furnish the performance security in accordance with paragraph 3.40*

- e) if the Tenderer fails to extend the validity of the tender security where REREC has extended the tender validity period in accordance with paragraph 3.18.*

3.18 Validity of Tenders

- 3.18.1 Tenders shall remain valid for One Twenty (120) days after the date of tender opening as specified in the Invitation to Tender or as otherwise may be prescribed by REREC pursuant to paragraph 3.23. A Tender that is valid for a shorter period shall be rejected by REREC as non-responsive.
- 3.18.2 In exceptional circumstances, REREC may extend the Tender validity period. The extension shall be made in writing. The tender security provided under paragraph 3.17 shall also be extended. A Tenderer shall not be required nor permitted to modify its tender during the extended period.

3.19 Alternative Offers

Only main offers shall be considered, as alternative offers are not acceptable.

3.20 Format and Signing of Bid

- 3.20.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITT 3.9.
- 3.20.2 Bidders shall mark as “CONFIDENTIAL” information in their Bids which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.
- 3.20.3 The bid documents shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation commissioned by a Commissioner of Oath or a Magistrate of the Kenyan Judiciary which shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid where entries or amendments have been made shall be signed or initialed by the person signing the Bid.
- 3.20.4. In case the Bidder is a JV, the Bid 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.
- 3.20.5 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.
- 3.20.6 The signed bid documents shall be scanned and uploaded to the collaboration folder in the response on Rural Electrification and Renewable Energy Corporation’s e-Procurement System.
- 3.20.7. The Original bid security shall be submitted to the Authority on or before the date of tender opening specified in the ITT.

3.21 Creation and Submission of Bids.

3.21.1. The Bidder shall process and submit its Bid via the Authority's e-Procurement system as follows:

- (a) Login to REREC portal via url <https://suppliers.rea.co.ke:44300/irj/portal>
N/B: It is assumed that you have already completed the registration process and that your registration has been approved by REREC and you have created an employee user account to transact with REREC via url
[https://suppliers.rea.co.ke:44200/supportal\(bD1lbiZjPTUwMCZkPW1pbg==\)/bspw_dapplication.do#VIEW_ANCHOR-ROS_TOP](https://suppliers.rea.co.ke:44200/supportal(bD1lbiZjPTUwMCZkPW1pbg==)/bspw_dapplication.do#VIEW_ANCHOR-ROS_TOP)

For the purpose of bidding, each firm must ensure the following

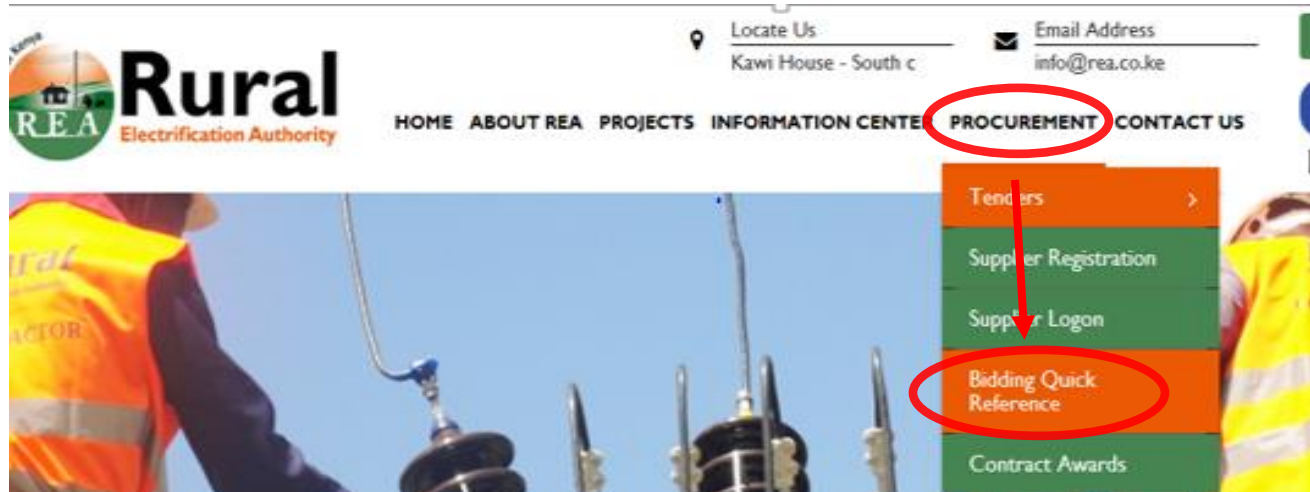
- Each company must have two user accounts; **Admin Account and Employee Account**. Ensure that the following roles are NOT ASSIGNED to the employee; Employee Administrator and Supplier Master Data manager.
 - Ensure that the admin account and employee account does not share same email address
 - Ensure that the Employee user name is between 4 and 12 characters.
 - For the purpose of this tender bidding, **the employee account** shall be used to submit your RFX responses.
- (b) Choose RFX and Auction link in the navigation pane
- (c) Click on the RFX number to open it
- (d) Click Register and then Click Participate
- (e) Click Create response; You will get a unique number for your response for the RFX
- (f) Navigate to the Notes and Attachments tab and click on Collaboration link at the bottom of the screen (the link will be in the format “**RFX Response No: Company Name**”. If under your notes and attachment no link is formed in the collaboration room, you are advised to delete the response and create a new one until the link is formed, in this link all the documents of the tender shall be uploaded.

N/B: You can view and download all documents pertaining to the tender from here. Ensure that all documents are uploaded to the Collaboration room in the link with “RFX Response Number: Company Name” therefore no responses shall be attached to the attachments, any such action shall be treated non-responsive, and the attachments shall not be evaluated.

You are to login to the collaboration link and upload all the required documents

- (g) Enter bid price in the item tab and fill in all required information for the response. This price shall be read out price during the opening.
- (h) **No value shall be entered under the RFX information “Target Value for RFX”**
- (i) Check for errors by clicking the Check button
- (j) Click on Save to review later or Submit to send the response to REREC

Supplier quick bidding reference with pictorials can be found in the REREC website as shown below for further use.



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

3.21.3 The authorization shall be indicated by a written Power of Attorney granted by the Tenderer to the authorized person before any of the following persons:-

- a) *For local Tenderers, a Commissioner of Oaths or a Notary Public or a Magistrate of the Kenyan Judiciary.*
- b) *For foreign Tenderers, a Notary Public in the country of the Tenderer.*

In either case above, the Power of Attorney shall accompany the Tender.

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

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

3.21.6 REREC will assume no responsibility whatsoever for the Tenderer's failure to comply with or observe the entire contents of this paragraph 3.21.1.

3.21.7 Any Tender not prepared and signed in accordance with this paragraph may be rejected by REREC's as non-responsive.

3.22. Modification/Withdrawal and Deadline for Submission of Tenders

3.22.1 Modification: A bidder may before tender closing edit their RFX response by clicking edit and resubmitting after editing the response.

3.22.2 Withdrawal: A Bidder may withdraw a Bid after it has been submitted by clicking withdraw if they are no longer interested in participating in the tender. A withdrawn bid shall not be evaluated

3.22.3 Deadline for Submission of Tenders: Tenders must be submitted online on or before the time specified in the Invitation to Tender.

REREC may, at its discretion, extend this deadline for submission of Tenders by amending the tender documents in accordance with paragraph 3.7, in which case all rights and obligations of REREC's and the Tenderer previously subject to the initial deadline, will therefore be subject to the deadline as extended.

3.23. Tender Opening

3.23.1 The Employer will open the tenders electronically in the presence of the tenderers' representatives who choose to attend at the time and location indicated in the Letter of Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

3.23.2 At the tender opening, the Employer will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as the Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.

3.23.3 The Employer shall prepare a tender opening register and minutes of the tender opening including the information disclosed to those present.

3.23.4 Tenders not opened and read out at a tender opening shall not be considered further for evaluation, irrespective of the circumstances. A tender who for any reason was not available in the Tender opening platform of the Procuring Entity and whose price was not read will not be evaluated

3.24. Process to be Confidential

3.24.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.

3.24.1 Any effort by a tenderer to influence the Employer in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.

3.25.1. Clarification Tenders

3.25.1. To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors

discovered by the employer during the evaluation of the tenders in accordance with clause 24.

- 3.25.2. No Tenderer shall contact the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of the Employer, he shall do so in writing.

3.26. Determination of Responsiveness

- 3.26.1. Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 3.26.2. For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.
- 3.26.3. Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a tender be seriously unbalanced in relation to the Employer's estimate of the works to be performed under any item or groups of items, the tender shall be deemed not responsive.
- 3.26.4. A tender determined to be not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

3.27. Correction of Errors

- 3.27.1 There shall be no correction errors of prices. Bid prices shall be the ones read out during opening and unless specified in the ITT shall be assumed to include all requisite taxes and levies

3.28. Conversion to Single Currency

- 3.28.1. For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date on the date of tender closing.

The Employer will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Day works where priced competitively) to Kenya Shillings at the selling rates stated in clause 3.27.1.

3.29. Evaluation and Comparison of Tenders

- 3.29.1. The Employer will evaluate and compare only tenders determined to be substantially responsive to the requirements of the tender document.
- 3.29.2. In evaluating tenders, the Employer will determine for each tender the evaluated tender price.
- 3.29.3. Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.
- 3.29.4. Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 15% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding Provisional Sums to a non-indigenous sub-contractor.
- 3.29.5. The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 3.29.6. Persons not officially involved in the evaluation of tender shall not attempt in any way to influence the evaluation.

3.30. Exclusive Preferences.

- 3.30.1. Where applicable, in the evaluation of tenders, exclusive preference shall be given to citizens contractors of Kenya where -:
 - a) *The funding is one hundred percent (100%) from the Government of Kenya or a Kenyan body, and,*
 - b) *The amount of the tender is below -*
 - (i.) *Kshs. 1 Billion in respect of roads works, construction materials and others used in transmission and conduction of electricity of which the material is made in Kenya.*
 - (ii.) *Kshs. 500 Million in respect of other works.*
 - (iii) *Kshs. 100 Million in respect of goods.*
 - (iv) *Kshs. 50Million in respect of services.*
- 3.30.2 A graduated margin of preference, shall where circumstances permit, be Applied as follows:-
- 3.30.3 15% of the evaluated price for Tenderers offering goods, manufactured, mined, Extracted or grown in Kenya.
- 3.30.4 10% of the evaluated price for Tenderers where the shareholding of Kenyan a citizen in the Tenderer Company or firm is above 50%.
- 3.30.5. 8% of the evaluated price for Tenderers where the shareholding of Kenyan Citizens in the Tenderer Company or firm is above 20% but not more than 50%.
- 3.30.6 6% of the evaluated price for Tenderers where the shareholding of Kenyan Citizens in the company or firm are not more than 20%.
- 3.30.6 In any of the cases above, if a Tenderer is entitled to more than one Preference, that Tenderer will be given only the preference that gives it the Highest advantage.

- 3.30.7 For purposes of this paragraph the Tenderer shall submit with its Tender, a valid copy of certificate of Confirmation of Directorships and Shareholding Issued and signed by either the Registrar of Companies or Registrar of business Names. This certificate must not be more than three (3) months old from the Date of the Tender Document. REREC reserves the right to subject the Certificate to Authentication.

NB: Not Applicable for this tender

3.31 Tender Evaluation Period

The tender evaluation committee(s) shall evaluate the tender within thirty (30) days of the validity period from the date of the first opening of the tender.

3.32 Debarment of a Tenderer

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

AWARD OF CONTRACT

3.33. Post – Qualification and Award

- 3.33.1. In the absence of pre-qualification, the employer will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.
- 3.33.2. The determination will take into account the tenderer financial, technical and production activities. It will be based on examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, as well as such other information as the employer deems necessary and appropriate.
- 3.33.3. An affirmative determination will be a pre-requisite for award of the contract to the tenderer. A negative determination will result in rejection of the tenderer's tender, in which the employer will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.
- 3.33.4. Subject to clause 3.33.2 the Employer will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works. And shall be done within the tender validity period.

3.34. Rejection of all tenders

- 3.34.1. The Employer reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.

- 3.34.2. The Employer reserves the right at the time of contract award to increase or decrease the number of projects originally specified in the schedule of projects without any change in unit price or other terms and conditions.

3.35. Notification of Award and signing of contract

- 3.35.1. Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his tender has been accepted. This letter (hereinafter and in all Contract documents called “Letter of Acceptance”) shall name the sum (hereinafter and in all Contract documents called “the Contract Price”) which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.
- 3.35.2. Upon the furnishing of a Performance Security by the successful tenderer, the unsuccessful tenderers will promptly be notified that their tenders have been unsuccessful.
- 3.35.3. At the same time the employer notifies the successful tenderer that his tender has been accepted, the employer shall notify the other tenderers that their tenders have been unsuccessful.
- 3.35.4. Within fourteen [14] days of receipt of the form of Contract Agreement from the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.
- 3.35.5. The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 3.35.6. A tenderer who gives false information in the tender document about is qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

3.36. Performance Security/Guarantee

- 3.36.1. Within twenty eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer with a Performance Security in an amount stated in the Appendix to Instructions to Tenderers.
- 3.36.2. The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer’s option by an established and a reputable Bank approved by the Employer and located in the Republic of Kenya and shall be divided into two elements namely, a performance security payable in foreign currencies and performance security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.
- 3.36.3. Failure of the successful tenderer to lodge the required Performance Security shall constitute a breach of Contract and sufficient grounds for the annulment of the award and

forfeiture of the Tender Security and any other remedy under the Contract the Employer may award the Contract to the next ranked tenderer.

3.37. Advance Payment

3.37.1. An advance payment, if approved by the Employer, shall be made under the Contract, if requested by the Contractor, in accordance with the Conditions of Contract. The Advance Payment Guarantee shall be denominated in the proportion and currencies named in the form of foreign currency requirements. For each currency, a separate guarantee shall be issued. The guarantee shall be issued by a bank located in the Republic of Kenya, or a foreign bank through a correspondent bank located in the Republic of Kenya, in either case subject to the approval of the Employer.

3.38. Corrupt and fraudulent practices

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

- a) *“Corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of public official in the procurement process or in contract execution;*
- b) *“Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of REREC, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive REREC of the benefits of free and open competition.*

3.38.2 REREC will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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

3.38.1 REREC will award the contract to the successful Tenderer whose Tender has been determined to be substantially responsive, technically compliant and has been determined to be the lowest evaluated tender, and further, where deemed necessary, that the Tenderer is confirmed to be qualified to perform the contract satisfactorily.

3.38.2 Award will be done as indicated in the Appendix to Instructions to Tenderers.

Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement and or amend the provisions of the Instructions to Tenderers *hereinafter abbreviated as ITT*. Wherever there is a conflict between the provisions of the ITT and the Appendix, the provisions of the Appendix herein shall prevail over those of the ITT

No.	ITT Reference Clause	Particulars of Appendix
1.	3.2.1 Eligible Tenderers	<i>This Invitation to Tender is Open to manufacturers of Composite poles based in Kenya only.</i>
2.	3.3.1 Origin of Eligible goods	<i>Only goods manufactured in Kenya are eligible</i>
3.	3.9 (e) Documents Comprising the Tender – List of Previous Customers	<i>Tenderer shall submit names with full contact as well as physical addresses of previous customers of treated poles, reference letters or completion certificate issued within the last three years confirming completion of orders on schedule by tenderer to REREC or from at least two (2) previous customers of treated poles. (New manufacturers will be exempted from this requirement but will be subjected to physical inspection to verify information given under clause 6.2.3 of the evaluation criteria provided they have fulfilled all other requirements of the evaluation criteria given under clause 6.1 & 6.2).</i>
4	3.11 Tender Prices	<i>Tendered prices shall be fixed for the period of the contract and shall be on delivery Duty Paid (DDP) only</i>
5.	3.11.2 Prices on price schedule	<i>Tenderers shall be required to note that they shall be responsible for payment of ALL taxes which includes VAT to the relevant authority.</i>
6	3.11.5 Tender Prices	<i>Enter bid price in the item tab and fill in all required information for the response. This price shall be read out price during the opening. No value shall be entered under the 'RFX information "Target Value for RFX"</i>
6.	3.13.3 (a) Manufacturer's Authorization	<i>Not Applicable for this tender.</i>
7.	3.13.3 (b) Documentary evidence of financial capability	<i>The audited financial statements required must be those that are reported within eighteen (18) calendar months of the date of the tender document. (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).</i>
8.	3.13.3 (c) and (d) Documents of evidence of eligibility	<i>These shall include consideration of quality certificates and tenderer's technical and production capacity necessary to perform the contract.</i>

No.	ITT Reference Clause	Particulars of Appendix
9.	3.14.3 (a) Catalogues, Brochures, Manufacturer's Drawings.	<p><i>i) a detailed description of the essential technical and performance characteristics of the goods whether in brochures, catalogues, drawings or otherwise, stamped by the manufacturer.</i></p> <p><i>ii) Duly completed, signed and stamped Schedule of Guaranteed Technical Particulars (GTP) for each item quoted by the manufacturer as per Tender Specifications demonstrating substantial responsiveness of the goods and service to those specifications and, if any, a statement of deviations and exceptions to the provisions of the Technical Specifications.</i></p>
10.	3.15.1 Sample(s)	<i>This is not applicable in this tender.</i>
11.	3.16.2 Warranty – Period of	This warranty period shall be Twenty-Five (25) year from date of delivery to REREC stores.
12.	3.17.1 Tender Security	<p><i>i. All bidders shall submit a Tender security that is 2% of total tender price VAT inclusive offered by the bidder in form of a bank Guarantee.</i></p> <p><i>ii. The bid security shall be scanned and attached to the bid documents to be uploaded in the REREC e-procurement portal.</i></p> <p><i>iii. Any Tender not accompanied by the Tender Security will be rejected by REREC as non-responsive.</i></p> <p><i>iv. The original tender security shall be dropped in the tender box situated in Ground Floor Kawi House South C Clearly Marked with the Tender Number on or before the date of tender closing.</i></p>
	Validity of Tender security	<i>The tender security shall be valid for 30 days after the validity of the tender.</i>
13	3.18 Validity of Tenders	<i>The tender shall be valid for 150 days</i>
14	3.20 Number of Sets of and Tender Format	<i>Bidders shall submit only one Tender Document in the portal which shall be a scan of the original.</i>
15	3.21 Preparation and Signing of the Tender	<i>The Original Tender scanned and submitted through the e-procurement portal shall have all the mandatory forms and attachments signed as required in this Tender document and its specifications.</i>
16	3.22 Sealing and Outer Marking of Tenders	There will be only one document submitted on the e-procurement portal. Bidders shall ensure they upload all the required documents into the portal clearly labeling each submitted document at the Collaboration folder of the portal. no responses shall be attached to the attachments, any such action shall be treated non-responsive, and the attachments shall not be evaluated.
17	3.25 Opening of Tenders	The tender shall be opened electrically in Kawi House South C at the Direction of the Procurement Office.

No.	ITT Reference Clause	Particulars of Appendix
17	3.32 Exclusive Preferences	<i>Not Applicable, reserved for locals</i>
18	3.36.2 Award of Contract	<i>The award of the contract shall be on Lot by Lot basis to the lowest evaluated bidder per category. Bidder can be awarded more than one</i>

SECTION IV - SCHEDULE OF REQUIREMENTS FOR GOODS (PART A).

TENDER NO. 1000000543 SUPPLY OF 10M COMPOSITE POLES – OPEN TO LOCAL MANUFACTURERS ONLY.

LOT	Item Code	Material Description	UoM	QTY	REREC Delivery Point	Latest Delivery Date After Contract	Bidders Offer for Delivery?
1	1001441	10M Composite Poles	No.	7,500	Nyeri	Within Seven (7) Months after Contract signing	
2	1001441	10M Composite Poles	No.	7,500	Kisumu	Within Seven (7) Months after Contract signing	

Date: _____

Name of Tenderer_____

Name and Capacity of authorized person signing the Tender _____

Signature of authorized person signing the Tender _____

NOTES TO TENDERERS:-

1. All deliveries shall be made to REREC stores or as otherwise indicated in accordance with the above Schedule.
2. Bidders to indicate their offer for period for delivery of the materials quoted for.

SECTION V - PRICE SCHEDULE FOR GOODS (PART A).

TENDER NO. 1000000543 SUPPLY OF 10M COMPOSITE POLES – OPEN TO LOCAL MANUFACTURERS ONLY.

LOT	Item Code	Material description	UoM	QTY	Storage Location	Unit price Kshs. DDP, VAT Inclusive	Total Price Kshs. DDP, VAT Inclusive
1	1001441	10M Composite Poles	No	7,500	Nyeri		
	TOTAL QUOTE FOR LOT NO.1						
2	1001441	10M Composite Poles	No	7,500	Kisumu		
	TOTAL QUOTE FOR LOT NO.2						
	TOTAL QUOTE FOR ALL THE LOTs QUOTED FOR						

SECTION V - PRICE SCHEDULE FOR GOODS (PART B)

TENDER NO. 1000000543 SUPPLY OF 10M COMPOSITE POLES – OPEN TO LOCAL MANUFACTURERS ONLY

Date:

Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C

P.O. 34585 – 00100

NAIROBI,

KENYA

Dear Sirs and Madams,

Having read, examined and understood the Tender Document including all Addenda, receipt of which we hereby acknowledge, we, the undersigned Tenderer, offer to supply REREC with for the sum of(total in figures).....(*in words*) or such other sums as may be ascertained in accordance with the schedule of prices inserted by me/ us above.

Name of Tenderer

Name and Capacity of authorized person signing the Tender

Signature of authorized person signing the Tender

***NOTES TO TENDERERS:-**

- i. The offered unit price **MUST** be rounded to **two decimal places**. Where the Tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to **two decimal places** and used for the purposes of this tender
- ii. Awards shall be made to the lowest responsive evaluated bidder.

SECTION VI - Summary of Evaluation Process

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

1. **Part 1 – PRELIMINARY EVALUATION; Confirmation that the Tender has met all the conditions set out under Preliminary Evaluation Criteria provided for under Paragraph 3.28 of the ITT which are referred to as mandatory requirements.** This shall include confirmation of the following: -

Preliminary Evaluation-Part A

6.1.1 Confirmation that;

- a) Bidder documents/Attachments have been submitted in the Collaboration folder of the SAP SRM System.
- b) Confirmation that the bidder's prices appear during tender opening. The entered prices in the Items Tab of the SRM Portal must be same as the prices in the Tender form/price schedules and the same prices are read out during opening.(award shall be based on the read out prices)

6.1.1 Confirm the following:-

- 1) Confirmation of Submission of a valid tender security during opening in form of a Bank guarantee,
- 2) Tender Security Value – The tender security shall be 2% (per cent) of the tender price (DDP Price, Vat Inclusive) Valid for 180 days
- 3) Confirmation of Submission and verification that the Tender Form duly completed, stamped and signed by the bidder and is valid for 150 days.
- 4) Submission of Company or Firm's Registration Certificate, Company's E-PIN Certificate with both Vat & Income Tax obligations.
- 5) Submission of company Valid Tax Compliance Certificate
- 6) Certified CR12 form from Registrar of Companies, not more than Three (3) months old for limited companies and certified by a Commissioner of Oaths or a Magistrate of the Kenyan Judiciary.
- 7) A written Power of Attorney authorized by the directors to the person to sign the tender, and Commissioned by Commissioner of Oaths or a Magistrate of the Kenyan Judiciary. All firms must submit Power of Attorney
- 8) Submission of delivery schedule and confirm that the Supplier's offered Delivery Schedule part A & B that meets REREC's requirements, duly filled, signed and stamped by the bidder.
- 9) Submission of declaration form duly filled & Letter of Application signed and stamped by the bidder.

- 10) Submission of a duly filled and signed self-declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act 2015 and Commissioned by Commissioner of Oaths or a Magistrate of the Kenyan Judiciary.
- 11) Submission of a duly filled and signed self-declaration that the person/tenderer will not engage in any corrupt or fraudulent practice and Commissioned by Commissioner of Oaths or a Magistrate of the Kenyan Judiciary.
- 12) Submission of Price Schedule part A and B, duly filled, signed and stamped by the bidder.
- 13) Submission of duly filled, stamp and sign the CBQ form thereby giving information which includes his contacts, physical location and ownership status of the business.
- 14) Manufacturer's Authorisation, on manufacturer's letter head which shall be embossed with the Manufacturers (Company) seal/stamp, and in the format provided, and shall be duly completed and signed by the manufacturer
- 15) Manufacturer's warranty, on manufacturer's letter head which shall be embossed with the Manufacturers (Company) seal/stamp, and in the format provided, and shall be duly completed and signed by the manufacturer
- 16) Confirmation of Submission and verification that the Manufacturer's contact details form is duly completed and signed by the Manufacturer and on the manufacturers letter head and shall be embossed with the Manufacturers (Company) seal/stamp.
- 17) Submission of Copies of relevant Type Test Certificates and their Reports or Test Certificate and their Reports not more than 5years old from the date of tender closing and from the designated bodies which shall be stamped and signed by the manufacturer.
- 18) Submission of a copy of Valid QMS ISO 9001/ IEC17025 accreditation certificate for the testing body/authority signed and stamped by the manufacturer.
- 19) The Manufacturer's valid and applicable quality management system certification i.e. ISO 9001:2015, signed and stamped by the manufacturer. Or Valid and applicable KEBS Standardization Mark certificate for items manufactured in Kenya or their equivalent from other East African Community countries. This should also be stamped and signed by the Manufacturer.
- 20) Submission of the following-
 - a) Manufacturer's standard drawings for the items tendered for, signed and Stamped by the manufacturer, and on the Manufacturers letter head.
 - b) Detailed Commentary on Schedule of Guaranteed Technical Particulars (GTP) for each item quoted for signed and stamped by the manufacturer and on the Manufacturers letter head. The GTPs should fully comply with REREC's specifications.
19. Checking submission of two years audited financial statements required which must be those that are reported within fifteen (15) calendar months of the date of the tender document signed by Certified Public Accountants and signed by directors.

6.2 Technical Evaluation Stage

Part II - Technical Evaluation Criteria under Paragraph 3.30 of the ITT. This will be in the following stages: -

Evaluation of the following technical information against Tender Requirements and Specifications:-

6.2.1. As contained in the following documents –

- a) Catalogues and Brochures for the item(s) being procured stamped and signed by the Manufacturer.
- b) Manufacturer's standard drawings for each item being procured shall be evaluated against Tender Specifications to confirm compliance.

6.2.2 Detailed Technical Evaluation

- a) The Schedule of Guaranteed Technical Particulars (GTP) for each item shall be evaluated against Tender Specifications to confirm compliance of the goods and services to the specifications and evaluation of any deviations and exceptions declared by the Tenderer.
- c) Identifying and determining any deviation(s) from the requirements; Errors and oversights Tenders which do not satisfy any of the requirements set out in part I & ii above (Preliminary and Technical) shall be rejected and SHALL not proceed to part iii (Financial evaluation stage).

Financial Evaluation Stage

6.3 Part III – Financial Evaluation Criteria under Paragraph 3.31 of the ITT. These are mandatory requirements.

6.3.1 This will include the following: -

- a) Checking that the Tenderer has quoted prices based on Delivery Duty Paid (DDP) inclusive of applicable taxes.
- b) Conducting a financial comparison, including conversion of tender currencies into one common currency,
- c) Financial comparison through ranking of the bidders

6.3.2 Confirming the following: -

6.3.2.1 That the Supplier's offered Delivery Schedule meets REREC's requirements.

6.3.2.2 Confirmation that the bidder has no pending deliveries. *Bidders with an outstanding order of more than 50% of the current valid contract/order at the time of tender opening shall not be awarded.*

Bidders with pending orders/contracts that have expired shall not be awarded

***NOTES: -**

1. For purposes of evaluation, the exchange rate to be used for currency conversion shall be the mean exchange rate ruling on the date of tender closing provided by the Central Bank of Kenya. (Visit the Central Bank of Kenya website).
2. Any counter offer will lead to automatic disqualification.
3. Total tender value means the Tenderer's total tender price inclusive of all applicable taxes for the items it offers to supply and includes transport to the respective storage location.

SECTION VII – General Conditions of Contract

The General Conditions of Contract *hereinafter referred abbreviated as the GCC* shall form part of the Conditions of Contract in accordance with the law and REREC's guidelines, practices, procedures and working circumstances. The provisions in the GCC will apply unless an alternative solution or amendment is made under other parts of the Contract including the Special Conditions of Contract.

7.1 Definitions

In this contract, the following terms shall be interpreted as follows: -

- a) *“Day” means calendar day and “month” means calendar month.*
- b) *“The Contract” means the agreements entered into between REREC and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.*
- c) *“The Contract Price” means the price payable to the Supplier under the contract for the full and proper performance of its contractual obligations.*
- d) *“The Goods” includes all of the equipment, machinery, and or other materials, which the Supplier is required to supply to REREC under the contract.*
- e) *“The Procuring Entity” means The Rural Electrification and Renewable Energy Corporation or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as REREC).*
- f) *“The Supplier” means the individual or firm supplying the goods under this contract or his/ her/ its permitted heir(s), personal representative(s), successor(s) or permitted assign(s) where the context so admits. For the avoidance of doubt this shall mean the successful Tenderer(s) pursuant to the tender.*
- g) *Wherever used in the contract, “delivery” shall be complete or be deemed to be complete, unless the circumstances indicate otherwise, when the goods have been inspected and tested in accordance with the Contract and where REREC does not signify its approval to the Supplier, but retains the goods without giving notice of rejection, on the expiration of thirty (30) days from date of documented receipt by the duly authorized representative of REREC, of the goods, at REREC stores or other indicated site.*

7.2 Application

These General Conditions shall apply to the extent that provisions of other parts of the contract do not supersede them.

7.3 Country of Origin

7.3.1 For purposes of this clause, “Origin” means the place where the goods were mined, grown, or produced.

7.3.2 The origin of Goods and Services is distinct from the nationality of the Supplier.

7.4 Standards

The Goods supplied under this contract shall conform to the standards mentioned in the Technical Specifications.

7.5 Use of Contract Documents and Information

- 7.5.1 The Supplier shall not, without REREC's prior written consent, disclose the contract, or any provision thereof or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of REREC in connection therewith, to any person other than a person employed by the Supplier in the performance of the contract.
- 7.5.2 The Supplier shall not, without REREC's prior written consent, make use of any document or information enumerated in clause 7.5.1 above.
- 7.5.3 Any document, other than the contract itself, enumerated in clause 7.5.1 shall remain the property of REREC and shall be returned (including all copies) to REREC on completion of the Supplier's performance under the contract if so required by REREC.

7.6 Patent Rights

The Supplier shall indemnify REREC against all third party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods of any part thereof in REREC's country.

7.7 Performance Security

- 7.7.1 Within twenty one (21) days of the date of the notification of contract award, the Supplier shall furnish to REREC the Performance Security which shall be either one or a combination of the following:-
- a) an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document.
 - b) Confirmed Standby Letters of Credit (LC). All costs, expenses and charges levied by all banks party to the LC including confirmation charges shall be prepaid by the successful Tenderer. Certain mandatory conditions of the LC shall be as prescribed in the Performance Security Form (LC) in the Tender Document.
- 7.7.2 The Performance Security shall be issued by a commercial bank licensed by the Central Bank of Kenya. The bank must be located in Kenya.
- 7.7.3 The Performance Security shall be the sum of ten percent (10%) of the contract price. It shall be in the currency of the contract price.
- 7.7.4 Failure of the Supplier to furnish the Performance Security, the award shall be annulled and the Tender Security forfeited, in which event REREC may notify the next lowest evaluated Tenderer that its Tender has been accepted.
- 7.7.5 The proceeds of the Performance Security shall be payable to REREC as compensation for any loss resulting from the Supplier's failure to comply with its obligations in accordance with the contract without REREC being required to demonstrate the loss it has suffered.
- 7.7.6 The Performance Security shall be valid for a minimum of sixty (60) days after satisfactory delivery for both Foreign and Local Suppliers.
- 7.7.7 REREC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the

Contract nullified, unless information to the contrary is received by REREC two (2) days before the expiry of the Supplier's Tender Security.

- 7.7.8 Subject to the provisions of this contract, the Performance Security will be discharged by REREC and returned to the Supplier not earlier than thirty (30) days following the date of completion of the Supplier's obligations under the contract, including any warranty obligations, under the contract.

7.8 Approval before Manufacture

- 7.8.1 All technical details and design drawings for the items to be supplied shall be submitted by the Supplier to REREC for approval before manufacture.
- 7.8.2 Should the Supplier fail to observe this condition of approval before manufacture, REREC may decline to accept the goods, or the Supplier shall either replace them or make alterations necessary, but in any case, REREC shall incur no liability howsoever.

7.9 Inspection and Tests

- 7.9.1 REREC or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the contract specifications. REREC shall notify the Supplier in writing in a timely manner, of the identity of any representative(s) retained for these purposes.
- 7.9.2 Prior to the manufacture or production of the goods on order, REREC reserves the right to inspect the manufacturing or production facility and the quality management system. The manufacturer or producer shall meet the cost of routine inspection while REREC shall meet the cost of air travel to the nearest airport and accommodation of three of its nominated officers inspecting and witnessing tests.
- 7.9.3 It is the responsibility of the Supplier to confirm if this right is to be exercised. Such visit and or inspection shall in no way prejudice REREC's rights and privileges.
- 7.9.4 Upon completion of manufacturing or production process, REREC reserves the right to send three of its nominated officers to inspect the goods on order at the place of manufacture where inspection and acceptance tests as per tender specifications shall be carried out in their presence. Tests shall be done in accordance with the test standard(s) given in the Technical Specification of the goods on order.
- 7.9.5 The manufacturer or producer shall meet the cost of tests as per tender specifications while REREC shall meet the cost of air travel to the nearest airport and accommodation of its three nominated officers inspecting and witnessing the tests.
- 7.9.6 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of production, manufacture, delivery and or at the goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to REREC. In all cases, the equipment used for tests must be validly calibrated by the national standards body and a copy (ies) of the calibration certificate(s) must be submitted with the test report(s).
- 7.9.7 Complete test report(s) for all the goods as per Tender Specifications shall be submitted to REREC for approval before packaging and shipment. No material or goods shall be shipped or delivered without written approval from REREC.

- 7.9.8 Should any inspected or tested goods fail to conform to the specifications, REREC shall reject the goods, and the Supplier shall either replace the rejected goods or make alterations necessary to meet specification requirements free of cost to REREC. The period for replacement or alterations together with delivery to REREC shall be fourteen (14) days or as may otherwise be specified in the notice of rejection.
- 7.9.9 The Supplier shall collect the rejected goods within fourteen (14) days from the date of notification of rejection. If the rejected goods are not collected within this period, the goods will be disposed of by REREC guided by the Disposal of Uncollected Goods Act, Chapter 38 of the Laws of Kenya.
- 7.9.10 notwithstanding any previous inspection(s) and test(s) REREC shall inspect and may test the goods upon arrival at the indicated site. Where REREC inspects and rejects the goods after the goods arrival, REREC shall claim from the Supplier the full cost of the goods including delivery charges to REREC Stores or other indicated site and other incidental costs incurred in relation thereof.
- 7.9.11 REREC's right to inspect, test and where necessary, reject the goods after their arrival shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by REREC or its representative(s) prior to the goods delivery.
- 7.9.12 For the avoidance of doubt, any acknowledgement by REREC on the Supplier's or sub-contractor's document shall not be conclusive proof or evidence of satisfactory delivery without duly authorized approval by REREC.
- 7.9.13 Nothing in clause 7.9 shall in any way release the Supplier from any warranty or other obligations under this Contract.
- 7.10 Pre-Shipment Verification of Conformity (PVoC)**
- 7.10.1 All Suppliers of imported goods and or products must obtain a Certificate of Conformity issued by an authorized KEBS appointed partner prior to shipment.
- 7.10.2 The Certificate is a mandatory customs clearance document in Kenya. KEBS has appointed, Global Inspections South Africa (Pty) Ltd, (GSIA), China Certification and Inspection (Group) Company Ltd (CCIC), Agency Societe Generale de Surveillance S.A. (SGS) and INTERTEK, to perform the PVoC programme on their behalf depending on the country of supply origin. The cost of pre-shipment verification shall be borne by the Supplier.
- 7.11 Packaging and Labelling**
- 7.11.1 The Supplier shall provide such packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract.
- 7.11.2 The method of packaging, labeling and marking shall comply strictly with such special requirements as shall be specified and attached to the Tender and particular Order.
- 7.11.3 The labelling, marking and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract.
- 7.11.4 The goods shall be packed in good condition suitable for sea/air/road/rail dispatch. Hazard in transit to the final destination shall include rough handling and storage in tropical conditions.
- 7.11.5 The Supplier shall enclose a packing list in each package and all documents relating to the Order shall show the Stores Code Number detailed against the items.

7.11.6 The Supplier shall ensure that all cases or packages shall be marked (painted) with bright pink bands five (5) inches in width so as to form a diagonal cross on every face. All bundles and pieces must bear a conspicuous bright pink colour mark to ensure identification in any position in which they may appear on un-loading.

7.11.7 The Supplier shall ensure that all lettering shall be no less than seven decimal five centimetres (7.5cm) or three inches (3") high and each package shall be marked with the shipping marks indicating the supplier or supplier's agent as the consignee.

7.12 Delivery and Documents for Foreign Goods

7.12.1 Delivery and or shipment of the goods shall be made by the Supplier to the place and in accordance with the terms specified by REREC in its Schedule of Requirements.

7.12.2 For imported goods, upon shipment, the Supplier shall notify REREC and the insurance company, by paper mail or facsimile the full details of the shipment including Order number, description of goods, quantity, the vessel, the airway bill number and the date, port of discharge. The Supplier shall courier, one copy to REREC and another to the insurance company, a set of the following documents: -

- a) *The Supplier's invoice showing the goods description, quantity, unit price, total amount*
- b) *Non-negotiable airway bill or bill of lading*
- c) *Packing list identifying contents of each package*
- d) *Insurance certificate, where applicable*
- e) *Manufacturer's and or Supplier's credit number, Type Test and or Test Reports and their respective Certificates and REREC's Official Order number shall be quoted on the shipping documents*
- f) *Approved drawings, brochures, catalogues and technical details*
- g) *Inspection Certificate issued by the nominated inspection agency, as per Clause 7.10 PVoC, and the Supplier's inspection report*
- h) *Summary of Acceptance Test reports signed and approved by REREC for the items offered, and,*
- i) *Certificate of Origin of the goods.*

7.12.3 It is the responsibility of the Supplier to ensure shipping documents are received by REREC at least one (1) week before the vessel docks or lands.

7.12.4 Any goods or products supplied without timely delivery or submission of the above mentioned shipping documents will not be released to importers until their quality is determined and will be held at the Supplier's expense.

7.12.5 Any late submission of shipping documents shall be treated as part of non-performance on the part of the Supplier and the Procurement Entity shall be entitled to call up the Performance Security. In addition REREC shall upon demand, be entitled to receive any other amounts in excess including demurrage costs.

7.13 Delivery and Documents for Domestic Goods

- 7.13.1 Delivery of the goods shall be made by the Supplier to the place and in accordance with the terms specified by REREC in its Schedule of Requirements.
- 7.13.2 The Supplier shall notify REREC of the full details of the delivered goods by delivering together with the goods a full set of the following documents:-
- a) *Copies of the Supplier's invoice showing the goods description, quantity, unit price and total price*
 - b) *Delivery note*
 - c) *Manufacturer's and or Supplier's warranty certificate*
 - d) *Packing list identifying contents of each package*
- 7.13.3 It is the responsibility of the Supplier to ensure that the delivery documents are received by REREC at the designated delivery point at the time of delivery.
- 7.13.4 Any late or non-submission of the delivery documents shall be treated as part of non-performance on the part of the Supplier and REREC shall be entitled to call up the Performance Security.

7.14 Transportation

- 7.14.1 Where the Supplier is required under the contract to deliver the goods FOB, transport of the goods, up to and including the point of putting the goods on board the vessel at the specified port of loading shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the contract price.
- 7.14.2 Where the Supplier is required under the contract to deliver the goods CFR to Kenya, transport of the goods to the port of discharge or such other point in Kenya as shall be specified in the contract shall be arranged and paid for by the Supplier and the cost thereof shall be included in the contract price.
- 7.14.3 Where the Supplier is required under the contract to deliver the goods CFR, no further restriction shall be placed on the choice of the shipping line and or airline.
- 7.14.4 Where the Supplier is required to effect the delivery under any other terms, for example by post or to another address in the source country, the Supplier shall be required to meet all transport expenses until delivery.
- 7.14.5 In all the above cases, transportation of the goods after delivery shall be the responsibility of the supplier.

7.15 Insurance

- 7.15.1 The goods supplied under the contract shall be fully insured by the Supplier against loss or damage incidental to manufacture, production or acquisition, transportation, storage and delivery up to the port of loading where the goods are being delivered FOB or the port of discharge or such other point in Kenya as shall be specified in the contract where the goods are being delivered CFR.
- 7.15.2 The Supplier shall (except in respect to losses, injuries or damage resulting from any act or neglect of REREC) indemnify and keep indemnified REREC against all losses and claims for injuries or damage to any person or property whatsoever which may arise out of or in consequence of the contract and against all claims, demands, proceedings, damages, costs, charges, and expenses whatsoever in respect thereof or in relation thereto.

7.16 Payment

- 7.16.1 Payments shall be made promptly by REREC and shall not be less than thirty (30) days from delivery and submission of invoice together with other required and related documents or as otherwise prescribed in the contract.
- 7.16.2 Payment shall primarily be through REREC's cheque or Real Time Gross Settlement (RTGS) or telegraphic transfer. Where applicable, a copy of a valid Performance Security, stamped, certified as authentic by REREC, shall form part of the documents to be presented to REREC before any payment is made. The terms shall be strictly on Delivered and Duty Paid (DDP) basis.
- 7.16.3 Suppliers who request for a Letter of Credit (*hereinafter abbreviated as LC*) –
- a) *Shall meet all the LC costs. Indicative costs levied by the banks include opening charges (0.25% per quarter), confirmation charges (0.25% flat), settlement (0.25% flat), acceptance charges (0.25% flat) and any amendment charges.*
 - b) *Any extension and or amendment charges and any other costs that may result from the Supplier's delays, requests, mistakes or occasioned howsoever by the Supplier shall be to the Beneficiary's account.*
 - c) *The maximum number of extensions and amendments shall be limited to two (2).*
 - d) *Should the Supplier require a confirmed LC, then all confirmation and any other related charges levied by both the Supplier's and REREC's bank shall be to the Beneficiary's account.*
 - e) *The LC shall be opened only for the specific Order within the validity period of the contract.*
 - f) *LCs shall be partial for partial performance or full for whole performance as per the contract.*
 - g) *The Supplier shall be required to submit a proforma invoice for each lot for use in the placement of order and opening of the LC. The proforma invoice shall be on total DDP basis.*
 - h) *A copy of the Performance Security, stamped and certified as authentic by REREC, whose expiry date should not be less than sixty (60) days from the LC expiry date, shall form part of the documents to be presented to the Bank before any payment is affected.*
- 7.16.4 REREC shall have the sole discretion to accept or decline any Supplier's payment request through Letters of Credit without giving any reason for such decline.

7.17 Interest

Interest payment by REREC shall be inapplicable in the contract.

7.18 Prices

- 7.18.1 Subject to clause 7.19 herein-below, prices charged by the Supplier for goods delivered and services performed under the contract shall, be fixed for the period of the contract with no variations.
- 7.18.2 A price that is derived by a pre-disclosed incorporation or usage of an internationally accepted standard formula shall not be deemed to be a price variation within the meaning of this clause.

7.19 Variation of Contract

REREC and the Supplier may vary the contract only in accordance with the following: -

- a) *the quantity variation for goods shall not exceed ten percent (10%) of the original contract quantity.*
- b) *the quantity variation must be executed within the period of the contract.*
- c). *The cumulative value of all contract amendments shall not increase the total contract price by more than twenty five percent from the original contract sum.*

7.20 Assignment

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

7.21 Subcontracts

7.21.1 The Supplier shall notify REREC in writing of all subcontracts awards under this contract if not already specified in the tender. Such notification, in the original tender or obligation under the Contract shall not relieve the Supplier from any liability or obligation under the Contract.

7.21.2 In the event that an award is given and the contract is sub contracted, the responsibility and onus over the contract shall rest on the Supplier who was awarded.

7.22 Termination of Contract

7.22.1 REREC may, without prejudice to any other remedy for breach of contract, by written notice sent to the Supplier, terminate this contract in whole or in part due to any of the following:

-

- a) *if the Supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by REREC.*
- b) *if the Supplier fails to perform any other obligation(s) under the contract.*
- c) *if the Supplier, in the judgment of REREC has engaged in corrupt or fraudulent practices in competing for or in executing the contract.*
- d) *by an act of force majeure.*
- e) *if the Supplier becomes insolvent or bankrupt*
- f) *if the Supplier has a receiving order issued against it, compounds with its creditors, or an order is made for its winding up (except for the purposes of its amalgamation or reconstruction), or a receiver is appointed over its or any part of its undertaking or assets, or if the Supplier suffers any other analogous action in consequence of debt.*
- d) *if the Supplier abandons or repudiates the Contract.*

7.22.2 REREC by written notice sent to the Supplier may terminate the Contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for REREC's convenience, the extent to which performance, by the Contractor, of the Contract, is terminated and the date on which such termination becomes effective.

7.22.3 For the remaining part of the Contract after termination for convenience, REREC may pay to the Supplier an agreed amount for partially completed satisfactory deliveries.

7.22.4 In the event that REREC terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered or not rendered, and the Supplier shall be liable to REREC for any excess costs for such

similar goods and or any other loss PROVIDED that the Supplier shall not be so liable where the termination is for convenience of REREC.

7.22.5 The Parties may terminate the Contract by reason of an act of *force majeure* as provided for in the contract.

7.22.6 The Contract may automatically terminate by reason of an act of *force majeure* as provided for in the Contract.

7.23 Liquidated Damages

Notwithstanding and without prejudice to any other provisions of the contract, if the Supplier fails to deliver any or all of the goods within the period specified in the contract, REREC shall, without prejudice to its other remedies under the contract, deduct from the contract prices, liquidated damages sum equivalent to

0.5% of the delivered or shipment price (whichever is applicable) per day of delay of the delayed items up to a maximum of ten percent (10%) of the delivered price of the delayed goods.

7.24 Warranty

7.24.1 The Supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the contract. The Supplier further warrants that the goods supplied under this contract shall have no defect arising from manufacture, materials or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied goods under the conditions obtaining in Kenya.

7.24.2 This warranty will remain valid for one (1) year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port of loading in the source country, whichever period concludes earlier.

7.24.3 REREC shall promptly notify the Supplier in writing of any claims arising under this warranty.

7.24.4 Upon receipt of such a notice, the Supplier shall, with all reasonable speed, replace the defective goods without cost to REREC.

7.24.5 If the Supplier having been notified fails to remedy the defect(s) within a reasonable period, REREC may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which REREC may have against the Supplier under the contract.

7.25 Resolution of Disputes

7.25.1 REREC and the Supplier may make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

7.25.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may resort to resolution before a recognized local forum for the resolution of disputes.

7.26 Language and Law

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

7.27 Waiver

Any omission or failure by REREC to exercise any of its rights or enforce any of the penalties arising from the obligations imposed on the Supplier shall in no way, manner or otherwise howsoever, alter, amend, prejudice, vary, waive or be deemed to alter, amend, prejudice, vary, waive or otherwise whatsoever any of REREC's powers and rights as expressly provided in and as regards this contract.

7.28 Force Majeure

7.28.1 *Force majeure* means any circumstances beyond the control of the parties, including but not limited to: -

- a) *war and other hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;*
- b) *ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;*
- c) *rebellion, revolution, insurrection, military or usurped power and civil war;*
- d) *riot, commotion or disorder except where solely restricted to employees servants or agents of the parties;*
- e) *un-navigable storm or tempest at sea.*

7.28.2 Notwithstanding the provisions of the contract, neither party shall be considered to be in default or in breach of its obligations under the contract to the extent that performance of such obligations is prevented by any circumstances of *force majeure* which arise after the Contract is entered into by the parties.

7.28.3 If either party considers that any circumstances of *force majeure* are occurring or have occurred which may affect performance of its obligations it shall promptly notify the other party and provide reasonable proof of such circumstances.

7.28.4 Upon the occurrence of any circumstances of *force majeure*, the Supplier shall endeavour to continue to perform its obligations under the contract so far as is reasonably practicable. The Supplier shall notify REREC of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by *force majeure*. The Supplier shall not take any such steps unless directed so to do by REREC.

7.28.5 If the Supplier incurs additional costs in complying with REREC's directions under sub clause 7.28.4, then notwithstanding the provisions of the Contract, the amount thereof shall be agreed upon with REREC and added to the contract price.

7.28.6 If circumstances of *force majeure* have occurred and shall continue for a period of twenty one (21) days then, notwithstanding that the Supplier may by reason thereof have been granted an extension of time for performance of the contract, either party shall be entitled to serve upon the other seven (7) days' notice to terminate the Contract. If at the expiry of the period of twenty-eight (28) days, *force majeure* shall still continue, the contract shall terminate.

SECTION VIII – Special Conditions of Contract

The Special Conditions of Contract *hereinafter abbreviated as SCC* shall form part of the Conditions of Contract. They are made in accordance with the law and REREC's guidelines, practices, procedures and working circumstances. They shall amend, add to and vary the GCC. The clauses in this section need not therefore, be completed but must be completed by REREC if any changes to the GCC provisions are deemed necessary. Whenever there is a conflict between the GCC and SCC, the provisions of the SCC shall prevail over those in the GCC.

No.	GCC Reference Clause	Particulars of SCC
1.	7.16.1 Payment – Terms of Payment 7.16.2 7.16.3 and 7.16.4	<i>The credit period shall be thirty (30) days from satisfactory delivery, inspection and acceptance of the items and submission of invoice together with other required and related documents.</i> <i>Payment shall primarily be through REREC's cheque or Real Time Gross Settlement (RTGS) or telegraphic transfer. Where applicable, a copy of a valid Performance Security, stamped, certified as authentic by REREC, shall form part of the documents to be presented to REREC before any payment is made. The terms shall be strictly on Delivered and Duty Paid (DDP) basis.</i> <i>Suppliers who request LC shall be issued with letter of credit subject to the requirements in 7.16.3 and 7.16.4 of the GCC</i>
2.	7.24.2 Warranty – Period of Period	<i>This warranty will remain valid for One (1) after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract,</i>

SECTION IX –Standard Forms to be Filled, Stamped and Signed

Letter of Application

RFX No.

Date:

Rural Electrification and Renewable Energy Corporation,
Kawi House, South C,
P.O. Box 34585 – 00100,
Nairobi, Kenya

Ladies and Gentlemen,

1. Having read, examined and understood all of the tender information provided in the tender document, the receipt of which is hereby duly acknowledged, we, the undersigned Candidate, hereby apply for a tender for.....
..... (*RFX Description in full*)
2. We agree to abide by this Tender including all the terms for a **period of..... days** (**Candidate please indicate validity of your tender**) from the date fixed for tender opening as per the tender Document, it shall remain binding upon us and may be accepted at any time before the expiration of that period.
3. *We declare that we have read and understood requirements of **Clause 3.21 and 3.22 of the instruction to Tenderers** on Creation, Submission, modifications and withdrawal of Bids, and shall abide by this requirement and any deviation from this section shall lead to disqualification and REREC is not to blame*
4. This application, together with your written appointment thereof, shall not constitute a contract between us nor commit REREC to any actual tender or amount of contract.
5. We understand that you are not bound to accept any application you may receive.
6. We declare that the statements made and the information provided in our prequalification tender document are complete, true, and correct in every detail.

Yours sincerely,

Name of Candidate_____

Name and Capacity of authorized person signing the Application_____

Signature of authorized person signing the Tender _____

Stamp or Seal of Candidate

NOTES:-

REREC requires a validity period of at least One hundred and Fifty (150) days.

Tender Form

Tender No.

Date:

To: **Rural Electrification and Renewable Energy Corporation**

Ground Floor: Kawi House, South C; Off RedCross Road, Behind Boma Hotel

P.O. 34585 – 00100

NAIROBI, KENYA

Ladies and Gentlemen,

1. Having read, examined and understood the Tender Document including all Addenda, the receipt of which is hereby duly acknowledged, we, the undersigned Tenderer, offer to supply and deliver,.....
..... *(insert goods description)* in accordance and conformity with the said tender document and in particular the Schedule of Prices that are made part of this Tender.
2. We undertake, if our Tender is accepted, to deliver, install and commission the goods in accordance with the delivery schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the performance security of a licensed commercial bank in Kenya in a sum equivalent to ten percent (10%) of the contract price for the due performance of the contract, in the form(s) prescribed by REREC.
- 4.* We agree to abide by this Tender for a **period of.....days (Tenderer please indicate validity of your tender)** from the date fixed for tender opening as per the Tender Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. This Tender, together with your written acceptance thereof and your notification of award, shall not constitute a contract, between us. The contract shall be formed between us when both parties duly sign the written contract.
6. We understand that you are not bound to accept any Tender you may receive.

Yours sincerely,

Name of Tenderer

Signature of duly authorized person signing the Tender

Name and Capacity of duly authorized person signing the Tender

Stamp or Seal of Tenderer

NOTES:

1. REREC requires a validity period of at least one hundred and Fifty (150) days.
2. This form must be duly signed, stamped and/or sealed.

Confidential Business Questionnaire Form

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

Part 1 – General

Business Name.....

Location of business premises.....Plot No.

Street/ RoadPostal Address

Postal Code Tel No.....

Facsimile.....Mobile and CDMA No.....

E-mail:Nature of your business

Registration Certificate No.....

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

Name of your BankersBranch... ..

*Names of Tenderer's contact person(s)

Designation/ capacity of the Tenderer's contact person(s)

Address, Tel, Fax and E-mail of the Tenderer's contact person(s)

.....

.....

Part 2 (a) Sole Proprietor

Your name in full

NationalityCountry of origin

Part (b) Partnerships

Give details of partners as follows: -

Names	Nationality	Shares (%)
1.....		
2.....		
3.....		
4.....		

Part 2 (c) Registered Company

Private or Public

State the nominal and issued capital of company-

*Nominal in KShs.

*Total Issued KShs.

Give details of all directors as follows

Name	Nationality	Shares (%)
------	-------------	------------

1.....		
--------	--	--

2.....		
--------	--	--

3.....		
--------	--	--

4.....		
--------	--	--

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

.....

Capacity of the duly authorized person.....

Signature of the duly authorized person.....

***NOTES TO THE TENDERERS ON THE QUESTIONNAIRE**

1. *The address and contact person of the Tenderer provided above shall at all times be used for purposes of this tender.*
2. *The details on this Form are essential and compulsory for all Tenderers. **Failure to provide all the information requested shall lead to the Tenderer's disqualification.***
3. *For foreign Tenderers please give the details of nominal and issued share capital in the currency of the country of origin of the Tenderer.*

Declaration Form

Date _____

To: **Rural Electrification and Renewable Energy Corporation**

Ground Floor: Kawi House, South C

P.O. 34585 – 00100

NAIROBI,

KENYA

Ladies and Gentlemen,

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

_____ declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Bidders.

Yours sincerely,

Name of Tenderer

Signature of duly authorized person signing the Tender

Name and Capacity of duly authorized person signing the Tender

Stamp or Seal of Tenderer

Debarment Declaration Form

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 Kenya do hereby make a
statement as follows:-

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

.....
..... and duly
authorized and competent to make this statement.

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

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

.....
(Title)

:.....
(Signature)

:.....
(Date)

Bidder's Official Stamp

Corrupt Or Fraudulent Practices Declaration Form

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:-

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 description)and duly authorized and competent to make this statement.

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

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 REREC.

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder's Official Stamp

Tender Security Form – (Bank Guarantee)
(To Be Submitted On Bank’s Letterhead)

Date:

To: Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C; Off RedCross Road, Behind Boma Hotel

P.O. 34585 – 00100

NAIROBI,

KENYA

WHEREAS (*name of the Tenderer*) (*hereinafter called “the Tenderer”*) has submitted its Tender dated for the supply, installation and commissioning of..... (*please insert REREC tender no. and name*) (*hereinafter called “the Tender”*);

KNOW ALL PEOPLE by these presents that **WE**.....ofhaving our registered office at.....(*hereinafter called “the Bank”*), are bound unto The REREC (*hereinafter called “REREC” which expression shall where the context so admits include its successors-in-title and assigns*) in the sum of for which payment well and truly to be made to the said REREC, the Bank binds itself, its successors, and assignees by these presents.

We undertake to pay you, upon your first written demand declaring the Tenderer to be in breach of the tender requirements and without cavil or argument, the entire sum of this guarantee being (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

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

This guarantee is valid until theday of.....20.....

EITHER

SEALED with the **COMMON SEAL**
of the said **BANK**

thisday of20.....
in the presence of :-

and in the presence of:-

OR

)
)
)
) **BANK SEAL**
)
)
)
)
)
)

SIGNED by the **DULY AUTHORISED**

REPRESENTATIVE(S)/ ATTORNEY(S) of the **BANK**

Name(s) and Capacity(ies) of duly authorized representative(s)/ attorney(s) of the Bank

Signature(s) of the duly authorised person(s)

NOTES TO TENDERERS AND BANKS

1. *Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Tender Security to be furnished by the Tenderer. If any are made, the Tender Security shall not be accepted and shall be rejected by REREC. For the avoidance of doubt, such rejection will be treated as non-submission of the Tender Security where such Security is required in the tender.*
2. *It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the Bank within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*
3. *The Tender validity period is One hundred and twenty (120) days as set out in the Invitation to Tender (at Section I of the Tender document) or as otherwise may be extended by REREC. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.*

Tender Security – (Letters Of Credit)

The Mandatory Conditions to be included in the Letters are in two parts, A and B.

Part A

Form of Documentary credit - “Irrevocable Standby”

Applicable rules - “Must be UCP Latest Version” i.e. UCP 600 (2007 REVISION) ICC Publication No. 600.

Place of expiry - At the counters of the advising bank.

The SBLC should be available – “By Payment”

Drafts should be payable at - “SIGHT”

Documents required -

1. Beneficiary’s signed and dated statement demanding for payment under the letter of credit no..... (*Insert LC No.*) as(*Name of applicant*) (hereinafter called the “Tenderer”) indicating that the “Tenderer” has defaulted in the obligations of the Tenderer as stated by the Beneficiary.
2. The Original Letter of Credit and all amendments, if any.

Additional Conditions -

1. All charges levied by any bank that is party to this documentary credit are for the account of the applicant.
2. There should be no conditions requiring compliance with the specific regulations or a particular country’s Law and regulations.

Charges - All bank charges are for the account of the applicant.

*Confirmation instructions – (See notes below)

Part B

The proceeds of these Letters are payable to REREC -

- a) if the Tenderer withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which the Tenders must remain valid.
- b) if the Tenderer rejects a correction of an arithmetic error
- c) if the Tenderer fails to enter into a written contract in accordance with the Tender Document
- d) if the successful Tenderer fails to furnish the performance security in accordance with the Tender Document.
- e) if the Tenderer fails to extend the validity of the tender security where REREC has extended the tender validity period in accordance with the Tender Document.

NOTES TO TENDERERS AND BANKS.

1. *Please note that should the Tender Security (LC) omit any of the above conditions the LC shall not be accepted and shall be rejected by REREC. For the avoidance of doubt, such rejection will be treated as non-submission of the LC where such LC is required in the Tender.*
2. *It is the responsibility of the Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to any queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the Bank within this period, such Tenderer's Tender Security shall be deemed as invalid and the bid rejected.*
3. *The Tender validity period is one hundred and twenty (120) days as set out in the Invitation to Tender (at Section I of the Tender document) or as otherwise may be extended by REREC. Therefore the Tender Security must at all times be valid for at least 30 days beyond the tender validity period.*
4. *All Guarantees issued by foreign banks must be confirmed by a local bank in Kenya.*

Manufacturer's Authorization Form

- **Not Applicable for this tender**

Manufacturer's Warranty Form
To Be Submitted On Manufacturer's Letterhead)

To:

Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C; Off RedCross Road, Behind Boma Hotel

P.O. 34585 – 00100

NAIROBI,

KENYA

RE: MANUFACTURER'S WARRANTY FOR GOODS REQUIRED UNDER TENDER NO

..... TO BE SUPPLIED BY(indicate your name)

WE HEREBY WARRANT THAT:

- a) The goods to be supplied under the contract are new, unused, of the most recent or current specification and incorporate all recent improvements in design and materials unless provided otherwise in the Tender.
- b) The goods in the Tenderer's bid have no defect arising from manufacture, materials or workmanship or from any act or omission of the Tenderer that may develop under normal use of the goods under the conditions obtaining in Kenya.

The Warranty will remain valid for Twenty-Five (25) year after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the contract.

DATED THIS..... DAY OF.....20.....

Signature of duly authorized person for and on behalf of the Manufacturer.

Name and Capacity of duly authorized person signing on behalf of the Manufacturer

NOTES TO TENDERERS AND MANUFACTURERS

1. *Only a competent person in the service of the Manufacturer should sign this letter of authority.*
2. *Provide full contact details including physical address, e-mail, telephone numbers and the website on the Warranty.*

Manufacturer's Contact Details Form
(To Be Submitted On Manufacturer's Letterhead)

To:

Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C

P.O. 34585 – 00100

NAIROBI,

KENYA

Manufacturer Details:

Company Legal Name _____

Company Trading Name _____

(Write the names in full)

Manufacturer Contacts:

Telephone No. _____ Postal Address _____

Email _____ Website _____

Physical address _____

Main Contact:

Full Name _____ Email _____

Position _____

Telephone _____ cellular _____

Describe your field of specialization. _____

Signed (Authorized Signatory) _____ Name: _____

Stamp/Seal here

SECTION X –Standard Forms Templates Not to be Filled

Draft Letter of Notification of Award

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

Dear Sirs/ Madams,

RE: NOTIFICATION OF AWARD OF TENDER NO.

We refer to your Tender dated..... and are pleased to inform you that following evaluation, your Tender has been accepted as follows: -

.....
.....

This notification does not constitute a contract. The formal Contract Agreement, which is enclosed herewith shall be entered into upon expiry of fourteen (14) days from the date hereof but not later than thirty (30) days after expiry of tender validity pursuant to the provisions of the Public Procurement and Disposal of Assets Act, 2015 *(or as may be amended from time to time or replaced)*.

Kindly sign, and seal the Contract Agreement. Further, initial and stamp on all pages of the documents forming the Contract that are forwarded to you with this letter. Thereafter return the signed and sealed Contract together with the documents to us within fourteen (14) days of the date hereof for our further action.

We take this opportunity to remind you to again note and strictly comply with the provisions as regards the Tender Security, Signing of Contract and Performance Security as stated in the Instructions to Tenderers.

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

Yours faithfully,

Chief Executive Officer

RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

Enclosures

Draft Letter of Notification of Regret

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

Date:

Dear Sirs/ Madams,

RE: NOTIFICATION OF REGRET IN RESPECT OF TENDER NO.

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

1.
2.
3. etc...

The successful bidder was _____.

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

You may collect the tender security from our *Procurement Department, on the Ground Floor: Kawi House, South C, and Nairobi* only after expiry of twenty five (25) days from the date hereof. It is expected that by that time REREC and the successful bidder will have entered into a contract pursuant to the Public Procurement and Disposal of Assets Act, 2015 *(or as may be amended from time to time or replaced)*. When collecting the Security, you will be required to produce the original of this letter.

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

Yours faithfully,

Chief Executive Officer

RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION

Contract Agreement Form

This Agreement, (hereinafter called “the Contract”) is entered into this -----day of -----
-----2015 between the RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION a state corporation established under Section 66 of the Energy Act, having its registered offices at the Kawi House, Ground Floor, Kawi House P. O. Box 34585 – 00100 Nairobi (hereinafter referred to as “the procuring entity” of one part

AND

..... (*Supplier’s full name and principal place of business*) a duly registered entity according to the laws of..... (*State country*) and of Post Office Box Number.....(*full address of Supplier*) in the Republic aforesaid, (*hereinafter referred to as the “Supplier”*) of the other part;

WHEREAS RREC invited tenders for certain goods, that is to say for (*RREC insert description of goods*) under Tender Number..... (*RREC insert tender number*)

AND WHEREAS RREC has accepted the Tender by the Supplier for the goods in the sum of(*RREC 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”*).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract and the Tender Document.
2. Unless the context or express provision otherwise requires: -
 - a) Reference to “this Agreement” includes its recitals, any schedules and documents mentioned hereunder and any reference to this Agreement or to any other document includes a reference to the other document as varied supplemented and or replaced in any manner from time to time.
 - b) Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.
 - c) Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.
 - d) Words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the “*Supplier*” the covenants, agreements obligations expressed to be made or performed by the Supplier shall be deemed to be made or performed by such persons jointly and severally.
 - e) Where there are two or more persons included in the expression the “*Supplier*” any act default or omission by the Supplier shall be deemed to be an act default or omission by any one or more of such persons.
3. In consideration of the payment to be made by RREC to the Supplier as hereinafter mentioned, the Supplier hereby covenants with RREC to supply the goods and remedy any defects thereon in conformity in all respects with the provisions of the Contract.
4. RREC hereby covenants to pay the Supplier in consideration of the proper supply of the goods 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. The following documents shall constitute the Contract between REREC and the Supplier and each shall be read and construed as an integral part of the Contract: -
 - a) This Contract Agreement
 - b) The Special Conditions of Contract as per the Tender Document
 - c) The General Conditions of Contract as per the Tender Document
 - d) The Price Schedules submitted by the Supplier and agreed upon with REREC
 - e) The Technical Specifications as per REREC's Tender Document
 - f) The Schedule of Requirements
 - g) REREC's Notification of Award & Suppliers Acceptance Letter
 - h) The Tender Form signed by the Supplier
 - i) The Declaration Form signed by the Supplier/ successful Tenderer
6. In the event of any ambiguity or conflict between the contract documents listed above, the order of precedence shall be the order in which the contract documents are listed in 5 above except where otherwise mutually agreed in writing.
7. The Commencement Date shall be the working day immediately following the fulfilment of all the following: -
 - a) Execution of this Contract Agreement by REREC and the Supplier.
 - b) Issuance of the Performance Bond by the Supplier and confirmation of its authenticity by REREC.
 - c) Issuance of the Official Order by REREC to the Supplier.
 - d) Where applicable, Opening of the Letter of Credit by REREC.
8. The period of contract validity shall begin from the Commencement date and end on -
 - a) sixty (60) days after the last date of the agreed delivery schedule, or,
 - b) where a Letter of Credit is adopted as a method of payment, sixty (60) days after the expiry date of the Letter of Credit or the expiry date of the last of any such opened Letter of Credit whichever is later.

Provided that the expiry period of the Warranty shall be as prescribed and further provided that the Warranty shall survive the expiry of the contract.

9. It shall be the responsibility of the Supplier to ensure that its Performance Security is valid at all times during the period of contract validity and further is in the full amount as contracted.
10. Any amendment, change, addition, deletion or variation howsoever to this Contract shall only be valid and effective where expressed in writing and signed by both parties.
11. No failure or delay to exercise any power, right or remedy by REREC shall operate as a waiver of that right, power or remedy and no single or partial exercise of any other right, power or remedy shall operate as a complete waiver of that other right, power or remedy.
12. Notwithstanding proper completion of delivery or parts thereof, all the provisions of this Contract shall continue in full force and effect to the extent that any of them remain to be implemented or performed unless otherwise expressly agreed upon by both parties.

13. Any notice required to be given in writing to any Party herein shall be deemed to have been sufficiently served, if where delivered personally, one day after such delivery; notices by electronic mail and facsimile shall be deemed to be served one day after the date of such transmission and delivery respectively (*and proof of service shall be by way of confirmation report of such transmission and or delivery*), notices sent by post shall be deemed served seven (7) days after posting by registered post (*and proof of posting shall be proof of service*), notices sent by courier shall be deemed served two (2) days after such receipt by the courier service for Local (Kenyan) Suppliers and five (5) days for Foreign Suppliers.
14. For the purposes of Notices, the address of REREC shall be Authority Secretary, The Rural Electrification and Renewable Energy Corporation, Ground Floor: Kawi House, South C, Post Office Box Number 34585–00100, Nairobi, Kenya,. The address for the Supplier shall be the Supplier’s address as stated by it in the Confidential Business Questionnaire provided in the Tender Document.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of Kenya the day and year first above written.

**SIGNED FOR AND ON BEHALF OF THE RURAL ELECTRIFICATION AND RENEWABLE ENERGY CORPORATION
CHIEF EXECUTIVE OFFICER
SIGNATURE: _____**

**In the presence of:
AUTHORITY SECRETARY
SIGNATURE: _____
SIGNED FOR AND ON BEHALF OF THE SUPPLIER**

**NAME OF SUPPLIER.....
NAME OF PERSON SIGNING.....
DESIGNATION:.....
SIGNATURE:**

**IN THE PRESENCE OF:
NAME OF SUPPLIER.....
NAME OF PERSON SIGNING.....
DESIGNATION:.....
SIGNATURE:**

1. *Please note that the alternative is applicable IF AND ONLY IF the Supplier is not a registered company but has tendered, and, is trading as a sole proprietor or a partnership as provided in the Confidential Business Questionnaire or is registered as a business name.*
2. *in all other cases, the Supplier is required to execute the contract as first provided.*

Performance Security Form (Bank Guarantee)

(To Be Submitted On Bank's Letterhead)

Date:

To:

Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C; Off Red Cross Road, Behind Boma Hotel

P.O. 34585 – 00100

NAIROBI,

KENYA

WHEREAS.....(hereinafter called “the Supplier”) has undertaken, in pursuance of your Tender Number.....(*reference number of the Tender*) and its Tender dated(*insert Supplier's date of Tender taken from the Tender Form*) to supply(*description of the goods*) (hereinafter called “the Contract);

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by an acceptable bank for the sum specified therein as security for compliance of the Supplier's performance obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Supplier a guarantee;

THEREFORE WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of..... (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of (*amount of guarantee*) as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until theday of.....20....

EITHER

SEALED with the **COMMON SEAL**)

of the said **BANK**)

thisday of20....)

BANK SEAL

in the presence of :-)

_____)

and in the presence of:-)

_____)

OR

SIGNED by the **DULY AUTHORISED**

REPRESENTATIVE(S)/ ATTORNEY(S) of

The **BANK**

Name(s) and Capacity(ies) of duly authorized representative(s)/ attorney(s) of the Bank

Signature(s) of the duly authorized person(s)

NOTES TO SUPPLIERS AND BANKS

1. *Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Performance Security Bond (the Bond) to be furnished by the successful Tenderer/ Supplier. If any are made, the Bond may not be accepted and shall be rejected by REREC. For the avoidance of doubt, such rejection will be treated as non-submission of the Bond where such Bond is required in the tender and Contract.*
2. *REREC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the Bank within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified.*

Performance Security (LC)

Mandatory Conditions that should appear on the Performance Security (LC).

Form of Documentary credit - “Irrevocable Standby”

Applicable rules - “Must be UCP Latest Version” i.e. UCP 600 (2007 REVISION) ICC Publication No. 600.

Place of expiry - At the counters of the advising bank.

The SBLC should be available – “By Payment”

Drafts should be payable at - “SIGHT”

Documents required –

1. Beneficiary’s signed and dated statement demanding for payment under the letter of credit no..... (*Insert LC No.*) as.....(*Name of Applicant*) (hereinafter called the “Supplier”) indicating that the “Supplier” has defaulted in the performance and adherence to and performance of the contract between the Beneficiary and the Supplier.
2. The Original Letter of Credit and all amendments, if any.

Additional Conditions -

1. All charges levied by any bank that is party to this documentary credit are for the account of the Applicant.
2. (Include) that there should be no conditions requiring compliance with the specific regulations or a particular country’s laws and regulations.

Charges - All bank charges are for the account of the Applicant.

Confirmation instructions – (See notes below)

NOTES TO SUPPLIERS AND BANKS

1. *Please note that should the Performance Security (LC) omit any of the above conditions the LC shall not be accepted and shall be rejected by REREC. For the avoidance of doubt, such rejection will be treated as non-submission of the LC where such LC is required in the tender and Contract.*
2. *REREC may seek authentication of the Performance Security (LC) from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC’s query. Should there be no conclusive response by the Bank within this period, such Supplier’s Performance Security (LC) may be deemed as invalid and the Contract nullified.*
3. *All Guarantees issued by foreign banks must be confirmed by a local bank in Kenya.*

Performance Security Form (Sacco Society, Deposit Taking Micro Finance Institutions & Youth Enterprise Fund)

(To Be Submitted On Institutions Letterhead)

Date:

To: Rural Electrification and Renewable Energy Corporation

Ground Floor: Kawi House, South C; Off RedCross Road, Behind Boma Hotel

P.O. 34585 – 00100

NAIROBI, KENYA

WHEREAS.....(hereinafter called “the Supplier”) has undertaken, in pursuance of your Tender Number.....(*reference number of the Tender*) and its Tender dated(*insert Supplier’s date of Tender taken from the Tender Form*) to supply(*description of the goods*) (hereinafter called “the Contract);

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Institution’s guarantee by an acceptable Institution for the sum specified therein as security for compliance of the Supplier’s performance obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Supplier a guarantee;

THEREFORE WE HEREBY AFFIRM that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of..... (*amount of the guarantee in words and figures*) and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of

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

This guarantee is valid until theday of.....20....

EITHER

SEALED with the)

COMMON SEAL)

of the said **INSTITUTION**)

thisday)

)

INSTITUTION SEAL

of20....)

in the presence of :-)

_____)

and in the presence of:-)

_____)

OR

SIGNED by the **DULY AUTHORISED**

REPRESENTATIVE(S)/ ATTORNEY(S) of

the **INSTITUTION**

Name(s) and Capacity(ies) of duly authorised representative(s)/ attorney(s) of the **Institution**.

Signature(s) of the duly authorised person(s)

NOTES TO SUPPLIERS AND INSTITUTIONS

1. *Please note that no material additions, deletions or alterations regarding the contents of this Form shall be made to the Performance Security Bond (the Bond) to be furnished by the successful Tenderer/ Supplier. If any are made, the Bond may not be accepted and shall be rejected by REREC. For the avoidance of doubt, such rejection will be treated as non-submission of the Bond where such Bond is required in the tender and Contract.*
2. *REREC shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the Supplier to sensitize its issuing bank on the need to respond directly and expeditiously to queries from REREC. The period for response shall not exceed five (5) days from the date of REREC's query. Should there be no conclusive response by the Institution within this period, such Supplier's Performance Security may be deemed as invalid and the Contract nullified.*

SECTION XI - The Technical Specifications

Technical specifications describe the basic requirements for goods. In addition to the information and documentation in the Tender Document regarding the technical aspects of this tender, all Tenderers shall comply with the following -

PART A - GENERAL REQUIREMENTS

1. Technical documentation shall be in English language. The specific items on offer shall be marked clearly for the goods they intend to supply.
2. The Tenderer shall submit the Schedule of Guaranteed Technical Particulars (GTP) completed by the Manufacturer. In submitting the GTP, cross-references should be made to the documents submitted.
3. Deviations from the tender specifications, if any, shall be explained in detail in writing, with supporting data including calculation sheets, detailed drawings and certified test reports and submitted together with the Tender. In submitting the deviations, cross-references should be made to the documents submitted. REREC reserves the right to reject the goods if such deviations shall be found critical to the use and operation of the goods.
4. Detailed contact information including title, e-mail, facsimile, telephone or any other form of acceptable communication of the testing and standards body used shall be provided.
5. Where Type Test Certificates and their Reports and or Test Certificates and their Reports are translated into English, all pages of the translations must be signed and stamped by the testing authority.
6. A Copy of the manufacturer's valid quality management system certification i.e. ISO 9001 shall be submitted for evaluation. For locally manufactured goods this requirement is not mandatory but all Test Reports and Certificates shall be certified by the Kenya Bureau of Standard (KEBS) or its appointed agent(s), in which case a letter of Accreditation must be submitted.
7. In all cases where the level of galvanizing and painting is not specifically stated in the detailed Technical Specifications, the general requirement shall be for a uniform coating of thickness not less than 80 microns.
8. Suppliers are required to provide information on proper representative(s) and or workshop for back-up service and or repair and maintenance including their names, telephone, facsimile, e-mail, physical and postal addresses, along with their offers.

PART B – Detailed Technical Specifications (DTS)

The Detailed Technical Specifications are as attached on a separate attachment

In the specification kindly replace **KPLC** with **REREC** and **Kenya Power** with **Rural Electrification and Renewable Energy Corporation**