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**TENDER DOCUMENT  
FOR THE PROCUREMENT OF MANUFACTURER  
SUPPORT SERVICES FOR KENTRADE BLADE  
SERVER SYSTEM**

**TENDER NO. KTNA/OT/05/2018-19**

**(ELIGIBILITY FOR DULY REGISTERED DISADVANTAGED  
GROUPS)**

***November, 2018***

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## INTRODUCTION

- 1.1 This Standard Tender Document has been prepared for use by The Kenya Trade Network Agency (KenTrade) for the procurement of **MANUFACTURER SUPPORT SERVICES FOR THE KENTRADE BLADE SERVER SYSTEM.**
- 1.2 The document includes a letter of Invitation, Instructions to Tenderers, detailed specifications of the requirements, and various forms for the tenderer to apply.
- 1.3 Kenya Trade Network Agency (KenTrade) is a State Corporation under the National Treasury. The mandate of KenTrade is to implement, operationalize and manage the Kenya National Electronic Single Window System (Kenya TradeNet System) and to Facilitate Trade. The Kenya TradeNet System is an electronic platform used by the trading community and government agencies for submission and processing of standardized trade documentation.

### Deliverables

The deliverables for this procurement are renewal of warranty and support for the systems listed below. A Warranty Certificate from OEM (DELL) will be required as proof of delivery of the warranty extension.

The server equipment warranty renewal must cover **all the software that came preinstalled with the blade system**, namely:

1. VMware vSphere Standard Edition
2. VMware vCenter Standard Edition
3. Windows Server 2012R2 Datacenter Edition

November 23, 2018

**TENDER NO. KTNA/OT/05/2018-19**

**TENDER FOR THE PROVISION OF MANUFACTURER SUPPORT FOR KENTRADE BLADE SERVER SYSTEM**

- I.1 The Kenya Trade Network Agency invites sealed tenders from eligible candidates for the provision of **PROCUREMENT OF MANUFACTURER SUPPORT SERVICES FOR KENTRADE BLADE SERVER SYSTEM**
- I.2 Interested eligible candidates may view and download **free of charge** from our website on the following link:- <http://www.kentrade.go.ke/index.php/procurement/tenders>, or purchased at a cost of **Kshs. 1000.00** from the procurement office at Embankment Plaza (1<sup>st</sup> Floor), Upper Hill.
- I.3 Candidates may also obtain further information at the Kenya Trade Network Agency offices (Procurement Office) at Embankment Plaza, Upper Hill, (First Floor) at the address given below.
- I.4 Completed Tenders should be submitted accompanied by a Tender Securing Declaration Form.
- I.5 Prices quoted shall be inclusive of duty and other taxes and shall remain valid for **90 days** from the closing date of the tenders.
- I.6 An Original and a Copy of the Completed Tender documents, shall be submitted in a plain sealed envelope which shall bear the Tender number and name, and marked “DO NOT OPEN BEFORE **Tuesday December 11<sup>th</sup> 2018 at 1000 hours**” and shall be addressed to:-

**The Chief Executive Officer,  
Kenya Trade Network Agency,  
Embankment Plaza, Upper Hill,  
P.O Box 36943-00200  
NAIROBI**

- I.7 All Tender Documents **MUST** be submitted in **HARD COPY** and should be deposited in the Tender Box located at the reception area of KENTRADE Offices at Embankment Plaza (First Floor). Documents submitted online shall **NOT** be acknowledged.
- I.8 Tenders will be opened immediately after the closing time in the presence of tenderers representatives who choose to attend the opening in the boardroom on first floor, Embankment Plaza.

**CHIEF EXECUTIVE OFFICER**

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## **SECTION II - INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### **2.2 Cost of tendering**

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The price to be charged for the tender document shall not exceed Kshs.1,000/=
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

### **2.3 Cost of Tendering**

- 2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

### **2.4 Contents of tender documents**

- 2.4.1 The tender document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders
  - i) Instructions to tenderers



- ii) General Conditions of Contract
- iii) Special Conditions of Contract
- iv) Schedule of Requirements
- v) Form of tender
- vi) Price schedules
- vii) Contract form
- viii) Confidential business questionnaire form
- ix) Tender security form
- x) Performance security form
- xi) Principal's or manufacturers authorization form

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

## **2.5 Clarification of Documents**

2.5.1. A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing or by post, fax or email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than three (3) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents"

2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender

## **2.6 Amendment of documents**

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

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.

2.6.3 In order to allow prospective tenderers reasonable time in which to take the

amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

## **2.7 Language of Tender**

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

## **2.8 Documents Comprising of Tender**

2.8.1 The tender prepared by the tenderers shall comprise the following components

- (a) Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
- (b) documentary evidence established in accordance with paragraph
  - i. 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
  - 2.2 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 2.14

## **2.9 Form of Tender**

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

## **2.10 Tender Prices**

2.10.1 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.

2.10.3 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.

2.10.4 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an

adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22

2.10.5 The validity period of the tender shall be 90 days from the date of opening of the tender.

## **2.11 Tender Currencies**

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## **2.12 Tenderers Eligibility and Qualifications**

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

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity'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.
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) 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, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## **2.14 Tender Security**

2.14.1

The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.

2.14.2 The tender security shall be in the amount of 0.5 – 2 per cent of the tender price.

- 2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7
- 2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, and valid for thirty (30) days beyond the validity of the tender.
- 2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22  
Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.
- 2.14.6 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28
- 2.14.7 The tender security may be forfeited:
- (a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or
  - (b) in the case of a successful tenderer, if the tenderer fails:
    - (i) to sign the contract in accordance with paragraph 2.27 or
    - (ii) to furnish performance security in accordance with paragraph 2.28

## 2.15 **Validity of Tenders**

- 2.15.1 Tenders shall remain valid for 90 days or as specified in the Invitation to tender after the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.
- 2.15.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## 2.16 **Format and Signing of Tender**

- 2.16.1 The tenderer shall prepare two copies of the tender, clearly marking each

“ORIGINAL TENDER” and “COPY OF TENDER,” as appropriate. Each Proposal shall be marked “**ORIGINAL**” or “**COPY**” as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall prevail.

2.16.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for unamended printed literature, shall be initialled by the person or persons signing the tender.

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

## **2.17 Sealing and Marking of Tenders**

2.17.1 The original and duplicate copy of the Tender documents shall be placed in a sealed envelopes and both shall be placed into an outer envelope and sealed

2.17.2 The inner and outer envelopes shall:

- (a) be addressed to the Procuring entity at the address given in the Invitation to Tender:
- (b) bear, tender number and name in the Invitation for Tenders and the words, “**DO NOT OPEN BEFORE Tuesday December 11<sup>th</sup> 2018 at 1000 hours at 1000 hours.**”

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

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## **2.18 Deadline for Submission of Tenders**

Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **Tuesday December 11<sup>th</sup> 2018 at 1000 hours at 1000 hours.**

2.18.1 The Procuring entity may, at its discretion, extend this deadline for the submission

of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

## **2.19 Modification and Withdrawal of Tenders**

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

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7

2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 7 days of receiving the request from any tenderer.

## **2.20 Opening of Tenders**

The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **Tuesday December 11<sup>th</sup> 2018 at 1000 hours,** in the location specified in the Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.20.1 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.

2.20.2 The Procuring entity will prepare minutes of the tender opening.

## **2.21 Clarification of Tenders**

2.21.1 To assist in the examination, evaluation and comparison of tenders the Procuring entity may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **2.22 Preliminary Examination**

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

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantify, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

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

non-conformity.

## **2.23 Conversion to Single Currency**

2.23.1 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the exchange rate on the date of the tender closing provided by the Central Bank of Kenya.

2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The tender evaluation committee shall evaluate the tender within 15 days of the validity period from the date of opening the tender.

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

## **2.25 Preference**

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%

## **2.26 Contacting the Procuring entity**

2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

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

## **2.27 Award of Contract**

### **(a) Post-qualification**

2.27.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.27.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems



necessary and appropriate.

An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**(b) Award Criteria**

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

**(c) Procuring entity's Right to Vary quantities**

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

**(d) Procuring entity's Right to Accept or Reject any or All Tenders**

2.27.6 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring entity's action

**2.28 Notification of Award**

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

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer

and will discharge its tender security, pursuant to paragraph 2.14

## **2.29 Signing of Contract**

- 2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.
- 2.29.2 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 2.29.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

## **2.30 Performance Security**

- 2.30.1 Within seven (7) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.
- 2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

## **2.31 Corrupt or Fraudulent Practices**

- 2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;
  - (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
  - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;

- 2.31.2 The procuring entity will reject a proposal for award if it determines that the

tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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

## Appendix on the instructions to Tenderers

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	<b>Registered firms who have a written (Verifiable) authorization from the Dell manufacturer to provide the support and maintenance for the Blade Server Infrastructure.</b>
2.14.1	N/A
2.18	The closing date for the tender shall be <b>Tuesday December 11<sup>th</sup> 2018 at 1000 hours</b>
2.24	<p><b><u>Tender Evaluation</u></b></p> <p>The following evaluation criterion shall be applicable for this tender.</p> <p><b>A. Mandatory Requirements</b></p> <ul style="list-style-type: none"> <li>i. Form of Tender duly filled and signed.</li> <li>ii. The following statutory documents duly certified by a Commissioner of oaths/magistrate or the issuing body. <ul style="list-style-type: none"> <li>a. Valid Tax Compliance Certificate (TCC).</li> <li>b. Registration certificate/ Certificate of incorporation</li> <li>c. Valid trade license.</li> <li>d. CR 12 certificate from Registrar of companies.</li> </ul> </li> <li>iii. Confidential Business questionnaire duly filled and signed.</li> <li>iv. Attach Identification documents (IDs or Valid Passports) of the owners/Directors of the firms.</li> <li>v. Dell Manufacturer Authorisation Form – Signed and Stamped by the Original Equipment Manufacturer. This may be verified with the manufacturer.</li> </ul>

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## SECTION III: GENERAL CONDITIONS OF CONTRACT

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

### **3.1. Definitions**

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

- (a) “The Contract” means the agreement entered into between KenTrade and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) “The Services” means services to be provided by the tenderer including any documents, which the tenderer is required to provide to KenTrade under the Contract.
- (d) “The Procuring entity” means the organization procuring the services under this Contract
- (e) “GCC” means the General Conditions of Contract contained in this section.
- (f) “SCC” means the Special Conditions of Contract
- (g) “Day” means calendar day

### **3.2. Application**

3.2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other part of the contract

### **3.3. Standards**

3.3.1 The services provided under this Contract shall conform to the standards mentioned in the schedule of requirements.

### **3.4. Use of Contract Documents and Information**

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

3.4.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of KenTrade and shall be returned (all copies) to KenTrade on completion of the contract's or performance under the Contract if so required by the Procuring entity.

### **3.5. Patent Rights**

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

### **3.7. Delivery of services and Documents**

3.7.1 Delivery of the services shall be made by the tenderer in accordance with the terms specified by KenTrade in the schedule of requirements and the special conditions of contract

### **3.8. Payment**

3.8.1. The method and conditions of payment to be made to the security firm under this Contract shall be specified in SCC

3.8.2. Payment shall be made promptly by the Procuring entity, but in no case later than thirty (30) days after submission of an invoice or claim by the tenderer.

### **3.9. Prices**

3.9.1 Prices charges by the tenderer for Services performed under the Contract shall not, with the exception of any price adjustments authorized in SCC vary from the prices quoted by the tenderer in its tender or in the procuring entity's request for tender validity extension the case may be. No variation in or modification to the terms of the contract shall be made except by written amendments signed by the parties.

3.9.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)



3.9.3 Where contract price variation is allowed the variation shall not exceed 25% of the original contract price

3.9.4 Price variation requests shall be processed by KenTrade within 30 days of receiving the request.

### **3.10. Assignment**

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

### **3.11. Termination for Default**

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

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

3.11.2 In the event KenTrade terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those un-delivered and the tenderer shall be liable to KenTrade for any excess costs for such similar services. However the tenderer shall continue performance of the contract to extent not terminated.

### **3.12. Termination for Insolvency**

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

### **3.13. Termination for Convenience**

- 3.13.1 KenTrade by written notice sent to the tenderer may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entities convenience, the extent to which performance of the tenderer of the contract is terminated and the date on which such termination becomes effective.
- 3.13.2 For the remaining part of the contract after termination KenTrade may elect to cancel the services and pay to the security firm an agreed amount for partially completed services.

### **3.14 Resolution of Disputes**

- 3.14.1 KenTrade and the tenderer shall make every effort to resolve amicably by direct informal negotiations and disagreement or disputes arising between them under or in connection with the contract
- 3.14.2 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 require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.15. Governing Language**

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

### **3.16. Applicable Law**

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

### **3.17 Force Majeure**

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

### **3.18 Notices**

3.18.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by Fax or Email and confirmed in writing to the other party's address specified in the SCC.

3.18.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

### **3.18.3 Prices**

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

3.18.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

3.18.3 Where contract price variation is allowed, the variation shall not exceed 25% of the original contract price.

3.18.4 Price variation request shall be processed by the procuring entity within 15 days of receiving the request.

### **3.19 Assignment**

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

### **3.20 Subcontracts**

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

### **3.21 Termination for default**

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

- (a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the

Procuring entity

- (b) if the tenderer fails to perform any other obligation(s) under the Contract
- (c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

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

### **3.22 Liquidated Damages**

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

### **3.23 Resolution of Disputes**

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

3.23.2 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 require adjudication in an agreed national or international forum, and/or international arbitration.

### **3.24 Language and Law**

The language of the contract and the law governing the contract shall be English

3.24.1 language and the Laws of Kenya respectively unless otherwise stated.

### **3.25 Force Majeure**

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

## **SECTION IV - SPECIAL CONDITIONS OF CONTRACT**

- 4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
- 4.2. Special conditions of contract as relates to the GCC

<b>REFERENCE OF GCC</b>	<b>SPECIAL CONDITIONS OF CONTRACT</b>
3.6	Performance Security shall not be required for this tender
3.8	Payment shall be made as shall be agreed upon in the signed contract.
3.14	Any disputes shall be resolved under Kenyan laws.

## SECTION V – TECHNICAL SPECIFICATIONS

### 5.1 General

- 5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc. for the products they intend to supply where applicable.
- 5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
- 5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
- 5.1.4 The tenderers are requested to present information along with their offers as follows:
  - (i) Shortest possible delivery period of each product
  - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

## 5.2 DESCRIPTION OF SERVICES

### TECHNICAL REQUIREMENTS FOR PROVISION OF MANUFACTURER SUPPORT FOR KENTRADE BLADE SERVER SYSTEM

#### Introduction

Kenya Trade Network Agency (KENTRADE) is a State Corporation under the National Treasury. The mandate of KENTRADE is to implement, operationalize and manage the Kenya National Electronic Single Window System (Kenya TradeNet System) and to Facilitate Trade.

KenTrade is seeking a qualified and competent partner to facilitate renewal of manufacturer support for its Blade Server Infrastructure for a period of one year effective until **31 December 2019**.

#### Deliverables

The deliverables for this procurement are renewal of warranty and support for the systems listed in below Table I. A Warranty Certificate from OEM will be required as proof of delivery of the warranty extension.

The server equipment warranty renewal must cover **all the software that came preinstalled with the blade system**, namely:

- 4 VMware vSphere Standard Edition
- 5 VMware vCenter Standard Edition
- 6 Windows Server 2012R2 Datacenter Edition

Service Tag	System Type	Warranty And Support Requirement
2W4QS62	DELL FORCE10 MXL 10/40GBE	PROSUPPORT AND NEXT BUSINESS DAY ON-SITE SERVICE
2W5NS62	DELL FORCE10 MXL 10/40GBE	PROSUPPORT AND NEXT BUSINESS DAY ON-SITE SERVICE
2W7PS62	DELL FORCE10 MXL 10/40GBE	PROSUPPORT AND NEXT BUSINESS DAY ON-SITE SERVICE
2W7QS62	DELL FORCE10 MXL 10/40GBE	PROSUPPORT AND NEXT BUSINESS DAY ON-SITE SERVICE
96GZM62	DELL KACE K1100	PROSUPPORT AND NEXT BUSINESS DAY ON-SITE SERVICE
8QXXG62	DL4300	PROSUPPORT AND 4HR MISSION CRITICAL
9G7RM62	EQUALLOGIC PSM4110	PROSUPPORT AND 4HR MISSION CRITICAL
2W6MS62	POWER EDGE M1000E	PROSUPPORT AND 4HR MISSION CRITICAL
8Q9YM62	POWEREDGE M630	PROSUPPORT AND 4HR MISSION CRITICAL
8QGW762	POWEREDGE M630	PROSUPPORT AND 4HR MISSION CRITICAL
8QH0H62	POWEREDGE M630	PROSUPPORT AND 4HR MISSION CRITICAL
8QH1F62	POWEREDGE M630	PROSUPPORT AND 4HR MISSION CRITICAL
8QHWM62	POWEREDGE M630	PROSUPPORT AND 4HR MISSION CRITICAL

**Table I: Equipment and Warranty/Support Requirement**

## EVALUATION CRITERIA

### I. Mandatory Requirements

- i. Form of Tender duly filled and signed.
- ii. Statutory documents duly certified by a Commissioner of oaths/magistrate or the issuing body
  - a) Valid Tax Compliance Certificate (TCC).
  - b) Registration certificate/ Certificate of incorporation
  - c) Valid trade license.
  - d) CR 12 certificate from Registrar of companies
- iii. Confidential Business questionnaire duly filled and signed.
- iv. Attach Identification documents (IDs or Valid Passports) of the owners/Directors of the firms.
- v. Dell Manufacturer Authorisation Form – Signed and Stamped by the Original Equipment Manufacturer. This shall be verified with the manufacturer.
- vi. Anti-corruption affidavit form(as per attached form)
- vii. Certificate of Accreditation from ICT Authority
- viii. Duly filled and signed Tender Securing Declaration Form as per attached template.
- ix. Certificate of Registration in a target group issued by the Ministry of Finance or respective County Treasury(AGPO CERTIFICATE)

Bidders MUST comply with all mandatory requirements listed above to be considered for the next evaluation stage (Technical evaluation).

### 2. Vendor Evaluation

The Vendor evaluation requirements are mandatory. Bidders MUST satisfy the requirements in order to proceed to the next stage.

No.	Description	Score
I	<p><b>Reference Sites relevant to this project</b> (Support renewal or Implementation and maintenance of storage/Rack or Blade servers)</p> <p>At least three local (Within Kenya) reference sites should be provided with the following information:</p> <ol style="list-style-type: none"><li>i. Brief of work done or services rendered,</li><li>ii. Value of contracts,</li><li>iii. Contact person with both reachable phone number and email.</li></ol> <p><b>N/B:</b></p> <p>✓ LPO's, LSO's or contracts should be attached to verify the above information. The contacts at the reference sites <b>shall</b> be contacted for verification of the information presented.</p>	Mandatory



### **3. Financial Evaluation**

The bidder with the lowest financial cost shall be recommended for award of this Tender provided they have satisfied the requirements set out in the mandatory and vendor evaluation stages.

## SECTION VI - SCHEDULE OF REQUIREMENTS

Number	Description		Delivery schedule
	All requirements as indicated in section 5		

## SECTION VII - PRICE SCHEDULE FOR SERVICES

No.	Service Description	COST (KSH)
1.		
2.		
3.		
4.	-	
5.	-	
	<b>TOTAL</b>	

## SECTION VIII - STANDARD FORMS

### Notes on the sample Forms

8.1. **Form of Tender** - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.

8.2 **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents.

8.3. **Tender Security Form** - When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.

8.4. **Contract Form** - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.

8.5. **Performance Security Form** - The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.

8.6. **Bank Guarantee for Advance Payment Form**- When Advance payment is requested for by the successful bidder and agreed by the procuring entity, this form must be completed fully and duly signed by the authorized officials of the bank.

8.7. **Manufacturers Authorization Form** - When required by the tender documents this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.

## 8.1 **FORM OF TENDER**

Date \_\_\_\_\_

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

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

\_\_\_\_\_  
*[name and address of procuring entity]*

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission ( ..... *(insert equipment description)* in conformity with the said tender documents for the sum of ..... *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract, in the form prescribed by ..... *(Procuring entity)*.

4. We agree to abide by this Tender for a period of ..... *[number]* days from the date fixed for tender opening of the Instructions to tenderers, 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 constitute a Contract, between us. Subject to signing of the Contract by the parties.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

[signature]

[in the capacity of]

Duly authorized to sign tender for an on behalf of \_\_\_\_\_

## 8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

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

### Part I – General:

Business Name .....  
 Location of business premises. ....  
 Plot No..... Street/Road .....  
 Postal Address ..... Tel No. .... Fax .....E mail .....  
 Nature of Business .....  
 Registration Certificate No. ....  
 Maximum value of business which you can handle at any one time – Kshs. ....  
 Name of your bankers ..... Branch .....

	<p align="center"><b>Part 2 (a) – Sole Proprietor</b></p> <p>Your name in full .....Age .....</p> <p>Nationality .....Country of origin .....</p> <ul style="list-style-type: none"> <li>• Citizenship details .....</li> </ul>																				
	<p align="center"><b>Part 2 (b) Partnership</b></p> <p>Given details of partners as follows:</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship Details</th> <th>Shares</th> </tr> </thead> <tbody> <tr> <td>1. ....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2. ....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3. ....</td> <td></td> <td></td> <td></td> </tr> <tr> <td>4. ....</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares	1. ....				2. ....				3. ....				4. ....			
Name	Nationality	Citizenship Details	Shares																		
1. ....																					
2. ....																					
3. ....																					
4. ....																					
	<p align="center"><b>Part 2 (c ) – Registered Company</b></p> <p>Private or Public .....</p> <p>State the nominal and issued capital of company-</p> <p>Nominal Kshs. ....</p> <p>Issued Kshs. ....</p> <p>Given details of all directors as follows</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship Details</th> <th>Shares</th> </tr> </thead> <tbody> <tr><td> </td><td></td><td></td><td></td></tr> <tr><td> </td><td></td><td></td><td></td></tr> <tr><td> </td><td></td><td></td><td></td></tr> <tr><td> </td><td></td><td></td><td></td></tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares																
Name	Nationality	Citizenship Details	Shares																		

	1 ..... 2 ..... 3 ..... 4 ..... 5 .....
Date ..... Signature of Candidate .....	

If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

### 8.3 TENDER SECURITY FORM

Whereas ..... [name of the tenderer]  
(hereinafter called "the tenderer") has submitted its tender dated ..... [date of submission of tender] for the supply, installation and commissioning of ..... [name and/or description of the equipment] (hereinafter called "the Tender") ..... KNOW ALL PEOPLE by these presents that WE ..... of ..... having our registered office at ..... (hereinafter called "the Bank"), are bound unto ..... [name of Procuring entity] (hereinafter called "the Procuring entity") in the sum of ..... for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

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

This 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 above date.

[Signature of the bank] \_\_\_\_\_



#### 8.4 CONTRACT FORM

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

WHEREAS the Procuring entity invited tenders for certain goods ] and has accepted a tender by the tenderer for the supply of those goods in the sum of ..... [*contract price in words and figures*] (hereinafter called “the Contract Price).

#### NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to:

2. The following documents shall be deemed to form and be read and construed as part of this Agreement viz:

- (a) the Tender Form and the Price Schedule submitted by the tenderer
- (b) the Schedule of Requirements
- (c) the Technical Specifications
- (d) the General Conditions of Contract
- (e) the Special Conditions of contract; and
- (f) the Procuring entity’s Notification of Award

3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tender hereby covenants with the Procuring entity to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract

4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions 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.

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

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

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer in the presence of \_\_\_\_\_

## 8.5 PERFORMANCE SECURITY FORM

To .....

[name of Procuring entity]

WHEREAS ..... [name of tenderer] (hereinafter called “the tenderer”) has undertaken , in pursuance of Contract No. \_\_\_\_\_ [reference number of the contract] dated \_\_\_\_\_ 20 \_\_\_\_\_ to \_\_\_\_\_ supply ..... [description of goods] (hereinafter called “the Contract”).

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

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

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

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

Signed and seal of the Guarantors

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

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

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

## 8.6 BANK GUARANTEE FOR ADVANCE PAYMENT FORM

To .....  
[name of Procuring entity]

[name of tender] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, ..... [name and address of tenderer](hereinafter called “the tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of ..... [amount of guarantee in figures and words].

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

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

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

Yours truly,  
Signature and seal of the Guarantors

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

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

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

## 8.7 MANUFACTURER'S AUTHORIZATION FORM

To [name of the Procuring entity] .....

WHEREAS .....[ name of the manufacturer]  
who are established and reputable manufacturers of ..... [name and/or  
description of the goods] having factories at ..... [address of factory]  
do hereby authorize ..... [name and address of Agent] to submit a  
tender, and subsequently negotiate and sign the Contract with you against tender No.  
..... [reference of the Tender] for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of  
Contract for the goods offered for supply by the above firm against this Invitation for  
Tenders.

---

[signature for and on behalf of manufacturer]

**Note:** This letter of authority should be on the letterhead of the Manufacturer and should  
be signed by a person competent.

## 8.8 LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

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

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

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

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

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

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

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

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

(FULL PARTICULARS) \_\_\_\_\_  
\_\_\_\_\_

SIGNED FOR ACCOUNTING OFFICER

## 8.9 FORM RB I

### REPUBLIC OF KENYA PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

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

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

#### REQUEST FOR REVIEW

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

1.

2.

Etc.

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

1.

2.

Etc.

SIGNED ..... (Applicant)

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

---

#### FOR OFFICIAL USE ONLY

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

SIGNED

Board Secretary



**ANTI CORRUPTION AFFIDAVIT FORM  
REPUBLIC OF KENYA  
IN THE MATTER OF OATHS AND STATUTORY DECLARATION ACT  
CHAPTER 15 OF THE LAWS OF KENYA**

**AND**

**IN THE MATTER OF THE PUBLIC PROCUREMENT AND DISPOSAL ACT,  
NO. 33 OF 2015.**

I, ..... of P.O. Box ..... being a resident of ..... In the Republic of Kenya do hereby make oath and state as follows:-

1. THAT I am the .....;  
(Chief Executive/Managing Director/Principal Officer/Director) of .....(Name of the Business) which is a Candidate in respect of Tender Number ..... to supply goods, render services and/ or carry out works for Kenya Trade Network Agency and duly authorized and competent to make this Affidavit.
2. THAT the aforesaid candidate has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and /or agents of Kenya Trade Network Agency, which is the procuring entity.
3. THAT the aforesaid Candidate , its servant(s) and/or agent(s) have not been offered and will not offer any inducement to any member of the Board, Management, Staff and/or employees and /or agents of Kenya Trade Network Agency.
4. THAT the aforesaid Candidate, its servant(s) and agent(s) have not been debarred from any procurement process.
5. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.

SWORN at ..... by the said}

.....}

On this ..... day of ..... 20.....}

} \_\_\_\_\_  
} DEPONENT

Before me  
Commissioner for Oaths

}  
}



## 8.11 TENDER SECURITY DECLARATION FORM

Tender Securing Declaration Form (to be submitted on the tenderer's letterhead)

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

Tender: **KTNA/OT/05/2018-19 - PROVISION OF MANUFACTURER SUPPORT FOR KENTRADE BLADE SERVER SYSTEM**

**The Chief Executive Officer,  
Kenya Trade Network Agency,  
Embankment Plaza, Upper Hill,  
P.O Box 36943-00200  
NAIROBI**

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-securing Declaration.
2. We accept that we will automatically be suspended from being eligible for bidding in any contract with KenTrade for the period of 2 years starting on **the date of notification of award** if we are in breach of our obligation(s) under the bid conditions, because we-
  - a) Have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
  - b) Having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
    - i. Fail or refuse to execute the Contract, if required, or
    - ii. Fail or refuse to furnish the Performance security, in accordance with the ITT
3. We understand that this Bid securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
  - i. Our receipt of a copy of your notification of the name of the successful Bidder; or
  - ii. Twenty eight days after the expiration of our tender
4. We understand that if we are in a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

.....

Name of Tenderer

.....

Signature of duly authorized person signing the tender

.....

Name and Capacity of the duly authorized person signing the tender

I      Dated on .....day of .....