



**REPUBLIC OF KENYA
MINISTRY OF PETROLEUM & MINING,
STATE DEPARTMENT FOR PETROLEUM**

BRANDING OF MWANANCHI GAS CONTAINERS

**TENDER NO. MOPM/SDP/OT/03/2017-2018
100% PREFERENTIAL TO AGPO**

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

**NYAYO HOUSE
P. O. BOX 30582 – 00100
NAIROBI**

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TEL: +2543310112 Ext.22276/22257**

MARCH, 2018

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1. SECTION 1-INVITATION TO TENDER

DATE.....2018

TENDER REF NO. MOPM/SDP/OT/03/2017-2018

**TENDER NAME: BRANDING OF MWANANCHI CONTAINERS -100%
PREFERENTIAL TO AGPO**

- 1.1** The Ministry of Petroleum and Mining, State Department for Petroleum invites sealed bids from eligible candidates for **Branding of Mwananchi Gas containers.**
- 1.2** Interested eligible tenderers may obtain a complete set of the Tender documents from Head, Supply Chain Management Office, Ministry of Petroleum & Mining, State Department for Petroleum, Room 24-19 on the 24th floor, Nyayo House upon payment of a **non-refundable fee of Kenya shillings One Thousand (Kshs. 1,000/=)** at the Cash Office located on the 21st Floor of Nyayo House during normal working hours from Monday to Friday (excluding any public or gazetted holiday) between 0800hrs to 1700hrs. Also the tenderers may obtain further information from Head, Supply Chain Management Office during office hours between 0800hrs to 1700hrs exclusive of public or gazetted holiday.
- 1.3** A complete tender document can also be obtained free of charge from the Ministry's website: www.energy.go.ke or the Government supplies portal www.treasury.supplier.go.ke.
Upon downloading the Tender documents tenderers are required to immediately send/e-mail their Contact names, Contact persons' details, firm's name, physical address to Head, Supply Chain Management. Email: info.supplychain@petroleum.go.ke
- 1.4** Completed tender documents are to be enclosed in plain sealed envelopes marked with the Tender name, Tender reference number and to be deposited in the Tender Box at **Ministry's Reception Area on 24th Floor** or be addressed to:

**The Principal Secretary,
Ministry of Petroleum and Mining,
State Department for Petroleum
P.O. Box 30582-00100,
NAIROBI**

During working hours, Monday to Friday **TEL: +2543310112 Ext.22276/22257**

to be received on or before **11thApril, 2018 at 1000hrs**

- 1.5** Bulky tenders that do not fit into the tender box should be deposited at the Head, Supply Chain Management Office located on 24th Floor Room-19, Nyayo House.
- 1.6** Tenders will be opened immediately thereafter in the presence of the tenderer and/or their representatives who choose to attend the opening at the **Main Conference on 23rd Floor boardroom Nyayo House.**

- 1.7** Prices quoted should be net inclusive of taxes and delivery, expressed in Kenya Shillings and *shall* remain valid for a period of one hundred and twenty (120) days from the closing date of the tender.
- 1.8** Tenderers are allowed to bid for preferred number of counties. Tender award will be on one county basis **ONLY** unless there are no successful bidders in subsequent counties.

Head, Supply Chain Management services
For: PRINCIPAL SECRETARY

2. 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 Contents of tender documents

- 2.3.1. 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. Details of service
- vi. Form of tender
- vii. Price schedules
- viii. Contract form
- ix. Confidential business questionnaire form
- x. Tender security form
- xi. Performance security form
- xii. Principal's or manufacturers' authorization form
- xiii. Declaration form

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

2.4 Clarification of Documents

- 2.4.1. A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing 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 seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents"
- 2.4.2. The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender

2.5 Amendment of documents

- 2.5.1. At any time prior to the deadline for submission of tenders, 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.
- 2.5.2. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.

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

2.6 Language of tender

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

2.7 Documents Comprising the Tender

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

- a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
- b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted.
- c) Tender security furnished is in accordance with Clause 2.12
- d) confidential business questionnaire

2.8 Form of Tender

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

2.9 Tender Prices

- 2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

- 2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.
- 2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.10 Tender Currencies

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

2.11 Tenderers Eligibility and Qualifications.

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

2.12 Tender Security

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.
- 2.12.2 The tender security shall be in the amount not exceeding 10 per cent of the tender price.
- 2.12.2 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7
- 2.12.3 The tender security shall be denominated in Kenya Shillings and shall be in the form of:
- a) A bank guarantee.
 - b) Cash.
 - c) Such insurance guarantee approved by the Authority.
 - d) Letter of credit
- 2.12.4 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20

- 2.12.5 Unsuccessful tenderer's 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.
- 2.12.6 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.
- 2.12.7 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 30 or
 - (ii) to furnish performance security in accordance with paragraph 31.
 - (c) If the tenderer rejects, correction of an error in the tender.

2.13 Validity of Tenders

- 2.13.1 Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.
- 2.13.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 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.

2.14 Format and Signing of Tender

- 2.14.1 The tenderer shall prepare two copies of the tender, clearly / marking each "**ORIGINAL TENDER**" and "**COPY OF TENDER,**" as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

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

2.15 Sealing and Marking of Tenders

2.15.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY.**” The envelopes shall then be sealed in an outer envelope. The inner and outer envelopes shall:

- a) be addressed to the Procuring entity at the address given in the invitation to tender
- b) bear, tender number and name in the invitation to tender and the words: “DO NOT OPEN BEFORE(day, date and time of closing),”

2.15.3 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”.

2.15.4 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

2.16 Deadline for Submission of Tenders

2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than 11th April, 2018 at 1000hrs.

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

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

2.17 Modification and withdrawal of tenders

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

2.17.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice

may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

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

2.17.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.18 Opening of Tenders

2.18.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at 1000hrs on 11th April, 2018 and in the location specified in the invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.

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

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

2.19 Clarification of tenders

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

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

Comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.20 Preliminary Examination and Responsiveness

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

2.21 Conversion to a single currency

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

2.22 Evaluation and comparison of tenders.

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

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

2.22.3 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:

(a) Operational plan proposed in the tender;

(b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 22.3 the following evaluation methods will be applied:

(a) Operational Plan.

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

(b) Deviation in payment schedule.

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

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

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

a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.

b) Legal capacity to enter into a contract for procurement

c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing

d) Shall not be debarred from participating in public procurement.

2.23. Contacting the procuring entity

- 2.23.1 Subject to paragraph 2.19, no tenderer shall contact the procuring entity on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.
- 2.23.2 Any effort by a tenderer to influence the procuring entity in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

2.24 Award of Contract

a) Post qualification

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

b) Award Criteria

- 2.24.3 Subject to paragraph 2.29 the Procuring entity will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.
- 2.24.4 The procuring entity reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity shall notify each tenderer who submitted a tender.

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

2.25 Notification of award

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

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

2.26 Signing of Contract

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

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

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

2.27 Performance Security

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

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders.

2.28 Corrupt or Fraudulent Practices

- 2.28.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.28.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- 2.28.3 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

APPENDIX TO INSTRUCTIONS TO THE TENDERERS

2.1 Appendix to 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	Eligible tenders for AGPO
2.20	<p>Evaluation Criteria</p> <p>Mandatory Requirements: Eligible Tenderers must submit the following requirements that will be used on preliminary evaluation (non-submission of the documents below will lead to the Tenderer being disqualified from the evaluation process)</p> <ul style="list-style-type: none"> i. Copy of Certificate of Incorporation or Registration ii. Attach AGPO certificate iii. Copy of a valid Tax Compliance Certificate valid at least up-to the date of tender opening iv. Duly filled and signed Bidder's declaration and Integrity Pact v. Letter from reputable bank regulated by CBK indicating the bidder has operated an account with them vi. Dully filled signed & stamped Confidential Business Questionnaire vii. Dully filled signed & stamped Tender Securing Form viii. Mandatory Pre-tender Site Visit Certificate <p>Pre-tender site visit shall be done in Machakos town opposite Commissioners' office at 1100hrs on Friday, 6th April, 2018</p>
2.16.3	Bulky tenders that do not fit into the Tender box should be deposited at the Head Supply Chain Management Officer's Office located on 24 th floor, 24-19 Nyayo House on or before 11 th April 2018 at 1000hrs
2.16	Tender closes at 1000hrs on 11th April 2018 at 1000hrs

2.22

Technical Evaluation Criteria

The Evaluation Criteria below will be used for ascertaining the technical responsiveness of the tenderer

Evaluation criteria	Score
<p>1. List of equipment owned for the performance of the works. Evidence of ownership or otherwise (e.g. lease agreements or certificate of ownership) must be provided. Verification will be done on award</p> <ul style="list-style-type: none"> • 2 No. Spray guns – 8 Marks • 2 No. Compressors – 8 marks • Min. Two no scaffold sets – 8 Marks <p>Where there evidence of one equipment, bidders earn (4mks)</p>	24 Marks
<p>2. CVs and Certificates of key site management and technical personnel outlined below, including proof of Membership certificate(s) of statutory and other affiliation/bodies/associations.</p> <ul style="list-style-type: none"> • Site Manager: Min. 5 years' experience in similar works/position – (5 Marks) • Site Supervisor/Clerk of Works (COW): Min 4 years' Experience in similar works/position – (5 Marks) 	10 Marks
<p>3. EHS Policy: The tenderer must have an Environmental, Health and Safety Policy signed by the Chief Executive Officer or the Managing Director</p>	6 Marks
<ul style="list-style-type: none"> • Work plan: Give a detailed work plan on how you intend to carry out the painting & branding of the modified containers within 8 weeks after signing the contract:-8 Weeks or less (20 Marks) 	

	<ul style="list-style-type: none"> • Above 8 Weeks -10 weeks (10 Marks) • Above 10-12 weeks (5 Marks) • Above 12 weeks (0 Marks) 	20 Marks
	TOTAL	60 Marks
	<p>AWARD CRITERIA</p> <p>To be considered technically responsive the tenderer should attain a minimum score of 45 points out of the 60 points above.</p> <ul style="list-style-type: none"> • Only bidders that score 45/60 points and above will have their financial proposals considered. • Tender award will be on county basis. • Tenderers are allowed to bid for preferred number of counties in the same tender document and shall submit a form of tender and Bills of Quantities for every county bidden for. (Clearly indicate the county name in the Form of Tender and respective Bills of Quantities). • Tender award will be on one county basis ONLY. However in case there are no successful bidders in subsequent counties, the responsive bidder(s) may be considered for award of up to a maximum of 3 counties. • 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. 	

SECTION III GENERAL CONDITIONS OF CONTRACT

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3. **SECTION III GENERAL CONDITIONS OF CONTRACT**

3.1 Definitions

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

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

3.2 Application

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

3.3 Standards

- 3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

3.4 Patent Right's

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

3.5 Performance Security

- 3.5.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in Special Conditions of Contract.
- 3.5.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 3.5.3 The performance security shall be denominated in the currency of the Contract or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of:
- a) Cash.
 - b) A bank guarantee.
 - c) Such insurance guarantee approved by the Authority.
 - d) Letter of credit.
- 3.5.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance of obligations under the contract, including any warranty obligations under the contract.

3.6 Inspections and Tests

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

3.7 Payment

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

3.8 Prices

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

3.9 Assignment

- 3.9.1 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.

3.10 Termination for Default

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

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

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

3.11 Termination of insolvency

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

3.12 Termination for convenience

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

3.13 Resolution of disputes

- 3.13.1 The procuring entity's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.
- 3.13.2 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.

3.14 Governing Language

- 3.14.1 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.

3.15 Force Majeure

- 3.15.1 The contractor 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.

3.16 Applicable Law.

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

3.17 Notices

- 3.17.1 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 E-mail and confirmed in writing to the other party's address specified in the SCC
- 3.17.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

4 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

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
4.2.1	<p>The performance security shall be 1% of Contract Price in the Form of Bank Guarantee drawn by a bank licensed and operating in Kenya or an international bank recognized by the Central Bank of Kenya.</p> <p>Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.</p>
4.2.2	<p>Payment shall be within thirty (30) days of receipt of invoices and delivery notes confirming that the painting and branding on containers has been concluded in accordance with the Contract.</p>
4.2.3	<ol style="list-style-type: none">1. The provisions of the Arbitration Act, laws of Kenya shall apply.2. The Arbitration language shall be English language3. The seat of arbitration shall be Nairobi, Kenya.4. The dispute shall be heard and determined by a single arbitrator appointed by the parties thereto.

5. SECTION V – TECHNICAL SPECIFICATIONS

5.1 General

5.1.1 All the dimensions, Paintings and Branding of the container 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/services, if such deviations shall be found critical to the use and operation.

5.1.2 The tenderers are requested to present information along with their offers as follows:

- i) Detailed work plan on how to carry out the works(within 8 weeks)
- ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

5.2 Defects Liability Period

5.2.1 The bidder's quotation shall be required to attend and correct defects that shall occur within defects liability Period of six (6) months from the date of service delivery for the works done.

5.3 PARTICULARS

5.3.1 The successful bidder(s) will be required to undertake Painting & Branding of modified 40FT-HC standard steel cargo freight container with metric dimensions:

5.3.2 Prepare the surface by scrapping old paint/container surface and skimming areas to ensure the surface is ready for application of paint. Allow for priming and application of undercoat on prepared surfaces

5.3.3 Supply of materials and labor to apply at least 2 coats gloss paint to manufacturers specification as per given specifications to container sides

5.3.4 Supply of materials and labor to draw and paint word art and images using color codes as per the specifications.

- 1. **Gas yetu Logo (3no.)**
- 2. **Court of Arms (2no.)**
- 3. **National Oil Logo (3no.)**
- 4. Word art in Capital Letters '**PATA YAKO HAPA'**(2no.)
- 5. **4 Pillars with respective Word art (in Capital Letters) & Logo:**
 - a) **BEI NAFUU (2no.)**
 - b) **INAPATIKANA MITAANI (2no.)**
 - c) **IMEJAZWA VIZURI (2no.)**
 - d) **SALAMA KUPIKIA (2no.)**

6. SECTION VI – SCHEDULE OF REQUIREMENTS

The services shall be done to the destinations below; contractors are advised to indicate the counties they are bidding for.

NB:

- Tender award will be on county basis. Tenderers are allowed to bid for preferred number of counties. Tender award will be on one county basis ONLY unless there are no successful bidders in subsequent counties, the responsive bidder(s) may be considered for award of up to a maximum of 3 counties.

SPECIFICATIONS AND BILLS OF QUANTITIES

SELECTED COUNTY.....

ITEM	DESCRIPTION	QTY	UNIT	RATE	TOTAL
	<i>ALL RATES TO BE INCLUSIVE OF VAT</i>				
	PRELIMINARIES				
A	Complying with Safety, Health, water provision and Environment Regulations	1	Item		
B	Protection of adjacent properties	1	Item		
C	Electrical power consumption and or Bill payment during works	1	Item		
D	The contractor is responsible for all statutory requirements i.e. licenses and approvals	1	Item		
	Subtotal 1				
	PAINT WORKS AND BRANDING (Per 40FT-HC Container)				
E	Prepare the surface by scrapping old paint/container surface and skimming areas to ensure the surface is ready for application of paint. Allow for priming and application of undercoat on prepared surfaces	92.4	SM		
F	Supply of materials and labor to apply at least 2 coats gloss paint to manufacturers specification as per given specifications to container sides	92.4	SM		
G	Supply of materials and labor to draw and paint word art and images using color codes as per the specifications.				
1	Gas yetu Logo	3	No		
2	Court of Arms	2	No		
3	National Oil Logo	3	No		
4	Word art in Capital Letters 'PATA YAKO HAPA'	2	No		
5	4 Pillars with respective Word art (in Capital Letters) & Logo:				
	a. BEI NAFUU	2	No		

	b. INAPATIKANA MITAANI	2	No		
	c. IMEJAZWA VIZURI	2	No		
	d. SALAMA KUPIKIA	2	No		
	Total cost for one (1) Container(Painting and Branding)				
	Subtotal 2 Total Cost for branding No. Containers (Please indicate the number of Containers in Selected county)				

REIMBURSABLES (Transport + Accommodation)
(Please complete for selected county only)

S/no	County Name	Sites			
1	Mombasa	6	No		
2	Kwale	4	No		
3	Kilifi	7	No		
4	Tana River	3	No		
5	Lamu	2	No		
6	Taita-Taveta	4	No		
7	Kitui	8	No		
8	Makueni	6	No		
9	Nairobi	17	No		
10	Kiambu	12	No		
11	Meru	9	No		
12	Laikipia	3	No		
13	Isiolo	2	No		
14	Tharaka-Nithi	3	No		
15	Embu	4	No		
16	Nyeri	6	No		
17	Murang'a	7	No		
18	Nyandarua	6	No		
19	Kirinyaga	4	No		
20	Homa Bay	8	No		
21	Migori	4	No		
22	Bomet	5	No		

23	Kisii	9	No		
24	Nyamira	4	No		
25	Kakamega	9	No		
26	Vihiga	5	No		
27	Bungoma	9	No		
28	Busia	7	No		
29	Siaya	6	No		
30	Kisumu	7	No		
31	Nakuru	11	No		
32	Narok	6	No		
33	Garissa	6	No		
34	Wajir	4	No		
35	Mandera	6	No		
36	Marsabit	4	No		
37	Baringo	6	No		
38	Turkana	6	No		
39	West Pokot	4	No		
40	Samburu	3	No		
41	Elgeyo-Marakwet	4	No		
42	Trans-Nzoia	5	No		
43	Nandi	6	No		
	Subtotal 3				

NB:

- Tender award will be on county basis. Tenderers are allowed to bid for preferred number of counties. Tender award will be on one county basis ONLY unless there are no successful bidders in subsequent counties
- Tenderer must clearly indicate the counties they are bidding for in the Form of Tender
- Tenderers are allowed to bid for preferred number of counties in the same tender document and shall submit a form of tender and Bills of Quantities for every county bid for. (Clearly indicate the county name in the Form of Tender and respective Bills of Quantities).

Signature of tenderer _____

7. **SECTION VII – PRICE SCHEDULE FOR GOODS**

Name of tenderer _____ Tender Number _____ Page _____ of _____

SUMMARY OF COSTS		
S/no.	ITEM	COST (KSHS.)
1	Preliminaries (Subtotal 1)	
2	Painting & Branding (Subtotal 2)	
3	Reimbursables (Subtotal 3)	
	TOTAL CARRIED TO FORM OF TENDER (Subtotal 1 + Subtotal 2 + Subtotal 3)	

Signature of tenderer _____

Note:

- a) The contract will be awarded per County.
- b) Tender award will be on county basis. Tenderers are allowed to bid for preferred number of counties. Tender award will be on one county basis ONLY unless there are no successful bidders in subsequent counties**
- c) Tender must clearly indicate the county they are bidding for in the Form of Tender
- d) Only unit prices are to be given by the tenderer, as this is a rates tender that will lead to a contract for the supply and delivery that will involve the supplier refurbishing and delivery to the sites to be advised.
- e) The tenderer is to give a full complete quotation with no hidden costs and factor the quotes as per the specifications given.
- f) Prices quoted should be net inclusive of taxies and delivery to all sites, and shall remain valid for 120 days from the closing date of the tender.
- g) Tenderer should give a detailed work plan on how he/she intends to carry out the painting & branding of the modified containers within 8 weeks after signing the contract

8 SECTION VIII – STANDARD FORMS

Notes on the sample Forms

- 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.
- 2 **Confidential Business Questionnaire Form** – This form must be completed by the tenderer and submitted with the tender documents.
- 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.
- 4 **Tender Securing Declaration 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.
- 5 **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.
- 6 **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.
- 7 **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 **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 Addendum 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 1 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

<p><i>Part 1 – General:</i></p> <p>Business Name</p> <p>Location of business premises.</p> <p>Plot No..... Street/Road</p> <p>Postal Address Tel No. Fax E mail</p> <p>Nature of Business</p> <p>Registration Certificate No.</p> <p>Maximum value of business which you can handle at any one time – Kshs.</p> <p>Name of your bankers Branch</p>

<p>Part 2 (a) – Sole Proprietor</p> <p>Your name in full Age</p> <p>Nationality Country of origin</p> <p>Citizenship details</p>																								
<p>Part 2 (b) Partnership</p> <p>Given details of partners as follows</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship Details</th> </tr> </thead> <tbody> <tr> <td>Shares</td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td></td> <td></td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Shares			1.			2.			3.			4.								
Name	Nationality	Citizenship Details																						
Shares																								
1.																								
2.																								
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<p>Part 2 (c) Registered Company</p> <p>Private.....</p> <p>State the nominal and issued capital of the Company-</p> <p>Nominal Kshs.....</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship Details</th> <th>Share</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> <tr> <td>5.....</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Name	Nationality	Citizenship Details	Share	1.....				2.....				3.....				4.....				5.....			
Name	Nationality	Citizenship Details	Share																					
1.....																								
2.....																								
3.....																								
4.....																								
5.....																								
<p>Date Signature of Candidate</p>																								

If a Kenyan 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*]

(*Amend accordingly if provided by Insurance Company*)

8.4 TENDER SECURING DECLARATION FORM

(The Bidder shall complete in this Form in accordance with the instructions indicated)

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

Tender No..... (*insert number of bidding process*)

To: **State Department of Petroleum**

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 the Purchaser for the period of time of(*insert number of months or years*) starting on..... (*Insert date*), if we are in breach of our obligation(s) under the bid conditions, because we:-
 - a) have with 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 successful Bidder, or
 - ii) twenty-eight days after the expiration of our Tender
- 4 We understand that if we are 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 shall be in the names of all future partners as named in the letter of intent.

Signed: (*insert signature of person whose name and capacity are shown*) in the capacity of

..... (*insert legal capacity of person signing the Bid Securing Declaration*)

Name:
(*insert complete name of person signing the Bid Securing Declaration*)

Duly authorized to sign the bid for and on behalf of: (*insert complete name of Bidder*)

Date on Day of(*insert date of signing*)

8.5 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 _____

(Amend accordingly if provided by Insurance Company)

8.6 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 Tenderers 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*]

8.7 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*]

8.8 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.

8.9 BIDDER'S DECLARATION AND INTEGRITY PACT

8.9.1 Bidder's Declaration

We/I the undersigned, in the capacity offor.....

[Name of the company/firm/individual] certify that the **bidder is not in any of the following situations:**

- 1 Bankruptcy; are the subject of proceedings for a declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of any other similar proceedings;
- 2 Payments to us have been suspended in accordance with the judgment of a court other than a judgment declaring bankruptcy and resulting, in accordance with our national laws, in the total or partial loss of the right to administer and dispose off our property;
- 3 Legal proceedings have been instituted against us involving an order suspending payments and which may result, in accordance with our national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of our property;
- 4 Are being wound up, or our affairs are being administered by court, or have entered into an arrangement with creditors, or have suspended business activities or are subject to an injunction against running business by a court of law;
- 5 Have been convicted by a final judgment of any crime or offence concerning our/my professional conduct;
- 6 Are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or execution of a tender already awarded; and
- 7 Are in breach of contract on another contract with the Government of Kenya or other local or international contracting authority or foreign government.
- 8 Have been convicted of an offence concerning our/my professional conduct by a court of law, or found guilty of grave professional misconduct;
- 9 Have not fulfilled obligations relating to payments of taxes or statutory contributions.

If the bidder is in any of the above listed situations, kindly attach documents giving details of the situation.

Names in full: [.....]

Duly authorized to sign this bid on behalf of (bidder's name):

[.....]

Place and date: [.....]

Stamp of the firm/company:

8.9.2 Integrity Pact

Bidder's Oath to fulfill the Integrity Pact

Accepting that transparent business management and fair public administration are key to social development and national competitiveness, and in an effort to purge corruption and apply sanctions to corrupt businesses, and in full support of the worthy goals of this Integrity Pact, concerning the present **BRANDING OF MWANANCHI GAS CONTAINERS** all personnel of _____ and its sub-contractors and agents hereby agree that:

1. We shall not conduct any unethical business practices, such as bid-rigging for the sake of a particular bidder to win the bid, or price-fixing. If proven as a fact that we have engaged in bid-rigging for the sake of a particular bidder to win the bid, we shall accept to be prohibited from submitting bids placed by State Department for Petroleum (herein referred to as State Department for Petroleum for a period of two (2) years. If proven that we have discussed with other bidders in a bid to fix a price, or rigged a bid for a particular bidder to win the bid, we shall accept the prohibition from submitting bids placed by State Department for Petroleum for a period of two (2) years. If any unethical behaviour is tantamount to a fraudulent practice, we accept that such a case may be handed over to the authorities for investigation and possible prosecution.
2. In the process of bidding, or concluding or execution of a contract, we shall not offer any bribe, gifts, entertainment or any other undue benefits directly or indirectly to related officials, and in case it is proved that we have violated any terms of this Integrity Pact in relation with a bid, or concluding or execution of a contract, or offered bribes for favours in a contract, to win a contract, or facilitate payment which should not have been forthcoming, we shall accept the prohibition from submitting a bid placed by State Department for Petroleum for a period of two (2) years. If proven as a fact that we have offered bribes to State Department for Petroleum or related officials for favours regarding a bid or contract to a bidder or a winning bidder, or for the purpose of faulty execution of the objectives of a contract, we shall accept the prohibition from submitting bids placed by State Department for Petroleum for a period of two (2) years. If proven that we have offered bribes to State Department for Petroleum or related officials in relation to bidding, or concluding or execution of a contract, we shall accept the prohibition from submitting bids placed by State Department for Petroleum for a period of two (2) years.
3. In case it is proven that we have offered bribes to a related official or a State Department for Petroleum official regarding a bid, or concluding or execution of a contract, we shall accept the cancellation of the contract, and shall not file any civil, administrative or criminal appeals.
4. We shall make our best effort to institute a Company Code of Conduct that prohibits bribery, bid rigging/fixing or any other corrupt practices in business relations with officials and State Department for Petroleum, and a company regulation that prohibits any retaliatory acts toward anyone reporting inside corruption.
5. In addition, I confirm on behalf of the bidder that the details included in the bidders profile and experience sheet and our quotation are correct to the best of my knowledge and belief. In

addition, we authorize, State Department for Petroleum to seek information from any source to confirm our compliance with the requirements of this Integrity Pact.

- 6 The bidder authorizes State Department for Petroleum, to seek information from any source, including publication of the name of the bidder to confirm that the bidder is compliant with the requirements of this Integrity Pact.

We shall fulfill this Integrity Pact as a solemn oath made on the basis of mutual trust, and, if and when we win a bid, we shall sign and fulfill the above as a “Special Condition of Contract,” and not file any civil, administrative or criminal appeals regarding any of the above terms.

Dated: _____

Signed by: _____
Principal Secretary

Full Name printed: _____

8.10 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.

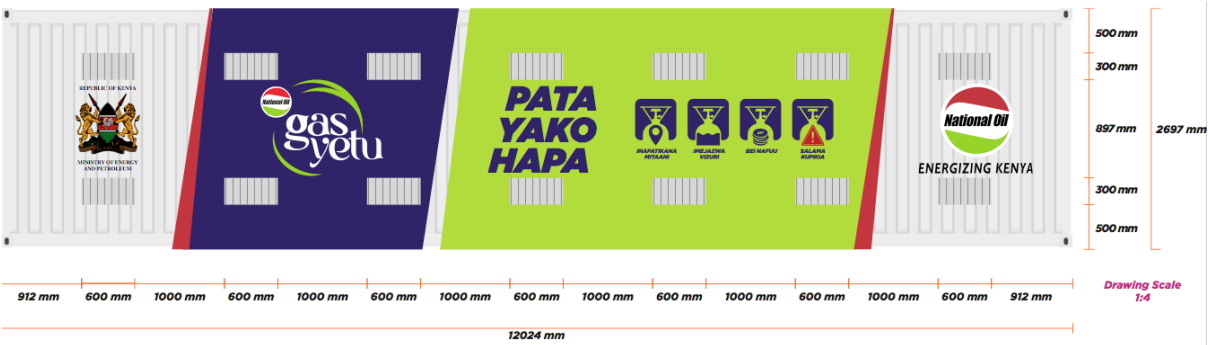
1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear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

(*FULL PARTICULARS*) _____

SIGNED FOR ACCOUNTING OFFICER

APPENDICES
CONTAINER BRANDING IMAGES

A. Branding on the two longer sides of the container



A. Branding on two shorter container sides



