



REPUBLIC  
OF  
KENYA



*Poverty Reduction Through Sustainable NRM*



**MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES  
UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT (UTaNRMP)**

**TENDER FOR SUPPLY AND DELIVERY OF ELECTRIC FENCE MATERIALS, PLASTIC AND  
WOODEN POSTS**

**FOR MT. KENYA FOREST RESERVE AND NATIONAL PARK**

**TENDER NO:- EBU/CC/35/2014-2015**

**CLOSING DATE AND TIME:**

**12th September 2014 AT 10.00 AM**

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## Section A. Invitation to tender



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### MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT (UTaNRMP)

#### NATIONAL COMPETITIVE TENDER

**TENDER NO: ~ EBU/CC/35/2014-2015 FOR: SUPPLY AND DELIVERY OF ELECTRIC FENCE MATERIALS, PLASTIC AND WOODEN POSTS FOR MT. KENYA FOREST RESERVE AND NATIONAL PARK**

1. The Government of Kenya has received financial assistance from the International Fund for Agricultural Development (IFAD) and the Spanish Trust Fund towards financing an eight year (2012-2020) Upper Tana Natural Resources Management Project (UTaNRMP). The goal of the project is to contribute to rural poverty reduction in the Upper Tana river catchment through increased sustainable food production, income and sustainable management of natural resources for provision of environmental services. The project Lead Agency is the Ministry of Environment Water and Natural Resources.
2. The project intends to apply part of the proceeds for procurement of Electric Fence Materials, Plastic and Wooden Posts for Kenya Forest Reserve and National Park. The implementing partners for the **fence activity** are: UTaNRMP, Kenya Wildlife Services (KWS), Kenya Forestry Service (KFS), Rhino Ark, Mount Kenya Trust, and Local Communities.
3. The Upper Tana Natural Resources Management Project (UTaNRMP) now invites sealed tenders from eligible bidders for the **supply and delivery** of Electric Fence Materials, Plastic and Wooden Posts for Mt. Kenya Forest Reserve and National Park.
4. A complete set of tender documents may be obtained by interested candidates upon payment of a non - refundable fee of **Kshs.1, 000.00 (One Thousand Shillings Only)** for **hard copies from the Embu County Procurement Offices in Embu**. At the time of submission, bidders will be required to submit evidence of payment for the documents. The tender documents are also available for downloading free of charge from UTaNRMP website [www.utanrmp.or.ke/downloads](http://www.utanrmp.or.ke/downloads) , but those who download will be required to register at [utanrmp@gmail.com](mailto:utanrmp@gmail.com) with the buyer giving information shown in the tender documents before the deadline for submission of tenders.

Tender No.	
Bidder Name	
Country	
Postal Address	
Telephone Number(s)	
Contact Person	
Email Address	
Lot (s) bidding for	

5. Bidders who download the documents but fail to register will not have their tenders opened and/or evaluated.
6. There will be a **pre-bid conference** to be held on **3<sup>rd</sup> September 2014 at 10.00 am at UTaNRMP Offices , Embu-Meru Road in Embu Town.**
7. Tenders must be accompanied by a bid security of at least **2% of the quoted amount** per lot issued in the form of a bank guarantee and valid for **120 days** from the date of tender opening.
8. Candidates **MUST** prove that they qualify to participate in public procurement by providing copies of the following documents or evidence:
  - i) Certificate of Incorporation.
  - ii) Tax Compliance Certificate
  - iii) An abstract of the candidates accounts for the last (2) two years accompanied by a **certificate by a certified auditing firm** or bank statement for the last 12 months.
9. Bids must remain valid for a period of ninety (90) days from the date of tender opening.
10. The completed tenders in plain sealed envelopes clearly marked **“TENDER NO: - EBU/CC/35/2014-2015 for the Supply and Delivery of Electric Fence Materials, Plastic and Wooden Posts for Kenya Forest Reserve and National Park. Lot No.....(insert lot no.)”** shall be addressed to:

**The Project Coordinator,**  
**P.O. Box 996-60100**  
**Emil:utanrmp@gmail.com**  
**EMBU**

or deposited in the **Tender Box** located at the **Embu County Commissioner’s Office, Embu** so as to reach the above named address not later than **10.00 am on 12<sup>th</sup> September 2014.** Opening of the tenders will take place immediately thereafter in the County Commissioner’s Boardroom in the presence of bidders’ representatives who wish to attend.

10. **UTaNRMP is a corrupt free project and no one is required to provide any inducement to participate in any of its implementation processes.**

Project Coordinator  
 FOR: Principal Secretary  
Ministry of Environment, Water and Natural Resources.

## **Section B. Instructions to tenderers**

### **1. Eligible Tenderers**

- 1.1 This Invitation for Tenders is open to all tenderers eligible as described in the tender documents. Successful tenderers shall complete the supply of materials and goods by the intended completion date specified in the tender documents.
- 1.2 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by UTaNRMP/KWS to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### **2. Cost of Tendering**

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

## **3 The Tender Document**

### **3.1 Contents**

The tender document comprises the documents listed below and addenda issued in accordance with clause 5 of these instructions to tenders.

- (i) Invitation for Tenders
- (ii) General Instructions
- (iii) Appendix to General Instructions
- (iii) General Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Schedule of Requirements and Price Schedules
- (vi) Technical Specifications
- (vii) Tender Form
- (viii) Tender Security Form
- (ix) Contract Form
- (x) Performance bond Form
- (xi) Bank Guarantee for Advance Payment Form
- (xii) Manufacturer's Authorization Form

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

### **4. Clarification of Documents**

- 4.1 A prospective tenderer requiring any clarification of the tender document may notify UTaNRMP in writing. UTaNRMP will respond in writing to any request for clarification of the tender documents, which it receives no later than ten (10) days prior to the deadline for the submission of tenders, prescribed by UTaNRMP. Written copies of UTaNRMP response

(including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have purchased the tender document.

## **5. Amendment of Documents**

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

## **Preparation of Tenders**

## **6. Language of Tender**

The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and UTaNRMP, shall be written in English language, except for any printed literature furnished by the tenderer which 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.

## **7. Documents Comprising the Tender**

- 7.1 The tender prepared by the tenderer shall comprise the following components:
  - (a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
  - (b) Documentary evidence established in accordance with paragraph 12 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 13 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 14

## **8. Tender Form**

- 8.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

## **9. Tender Prices**

- 9.1 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.

- 9.2 Prices indicated on the Price Schedule shall include all duties and taxes payable in the country and charges for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination; and

9.3 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 22.

## **10. Tender Currency**

10.1 Prices shall be quoted in Kenya Shillings irrespective of their source.

## **11. Tenderer's Eligibility and Qualifications.**

11.1 Pursuant to paragraph 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.

11.2 The documentary evidence of the tenderers eligibility to tender shall establish to UTaNRMP's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 1 above.

11.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to UTaNRMP'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 Tenderers' maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## **12. Goods' Eligibility and Conformity to Tender Document.**

13.1 The tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the tender documents of all goods, which the tenderer proposes to supply under the contract.

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

13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- (a) a detailed description of the essential technical and performance characteristics of the goods;
- (b) a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by UTaNRMP /KWS; and

- (c) a clause-by-clause commentary on UTaNRMP's Technical Specifications demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

13.4 For purposes of the commentary to be furnished pursuant to paragraph 13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by KWS in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to UTaNRMP/KWS's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

#### **14. Tender Security**

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

14.2 The tender security is required to protect UTaNRMP against the risk of Tenderer's conduct, which would warrant the security's forfeiture, pursuant to paragraph 14.7

14.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, in the form provided in the tender documents or another form acceptable to UTaNRMP and valid for thirty (30) days beyond the validity of the tender.

14.4 Any tender not secured in accordance with paragraph 14.1 and 14.3 will be rejected by UTaNRMP as non-responsive, pursuant to paragraph 22.

14.5 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 UTaNRMP.

14.6 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 30, and furnishing the performance bond, pursuant to paragraph 31.

14.7 The tender security may be forfeited:

- (a) If a tenderer withdraws its tender during the period of tender validity specified by UTaNRMP 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 bond in accordance with paragraph 31.

#### **15. Validity of Tenders**



- 15.1 Tenders shall remain valid for 90 days or as specified in the tender documents after date of tender opening prescribed by UTaNRMP, pursuant to paragraph 18. A tender valid for a shorter period shall be rejected by UTaNRMP as non-responsive.
- 15.2 In exceptional circumstances, UTaNRMP may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## **16. Format and Signing of Tender**

- 16.1 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.
- 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 un-amended printed literature, shall be initialed by the person or persons signing the tender.
- 16.3 The tender shall have no interlineation, 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.

## **Submission of Tenders**

### **17. Sealing and Marking of Tenders**

- 17.1 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.
- 17.2 The inner and outer envelopes shall:
- (a) Be addressed to UTaNRMP at the following address:  
**The Project Coordinator**  
UTaNRMP,  
P.O BOX 996-60100  
EMBU
  - (b) Bear, the Project name the Invitation for tenders (IFT), and the words: "DO NOT OPEN BEFORE," **12th September 2014 at 10.00 AM**
- 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".
- 17.4 If the outer envelope is not sealed and marked as required by paragraph 17.2, UTaNRMP will assume no responsibility for the tender's misplacement or premature opening.

## **18. Deadline for Submission of Tenders**

- 18.1 Tenders must be received by UTaNRMP at the address specified under paragraph 17.2 not later than **12th September 2014 at 10.00 AM**
- 18.2 UTaNRMP 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 UTaNRMP and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

## **19. Modification and Withdrawal of Tenders**

- 19.1.1 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 UTaNRMP prior to the deadline prescribed for submission of tenders.
- 19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 17. 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.
- 19.3 No tender may be modified after the deadline for submission of tenders.
- 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 14.7.

## **Opening and Evaluation of Tenders**

### **20. Opening of Tenders**

- 20.1.1 All tenders will be opened in the presence of tenderers' representatives who choose to attend, Embu County Commissioners Offices, Embu.

The tenderers' representatives who are present shall sign a register evidencing their attendance.

- 20.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as UTaNRMP, at its discretion, may consider appropriate, will be announced at the opening.
- 20.2 . The Embu county procurement office will prepare minutes of the tender opening.

### **21. Clarification of Tenders**

- 21.1 To assist in the examination, evaluation and comparison of tenders UTaNRMP 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.

21.2 Any effort by the tenderer to influence UTaNRMP in its tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

## **22. Preliminary Examination**

22.1 UTaNRMP 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.

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 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.

22.3 UTaNRMP 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.

22.4 Prior to the detailed evaluation, pursuant to paragraph 23, UTaNRMP 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. UTaNRMP's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

22.5 If a tender is not substantially responsive, it will be rejected by UTaNRMP and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

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

23.1 UTaNRMP will evaluate and compare the tenders, which have been determined to be substantially responsive, pursuant to paragraph 22.

23.2 The evaluation of a tender will exclude and not take into account:

- (a) in the case of goods manufactured in Kenya or goods of foreign origin already located in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the tenderer; and
- (c) any allowance for price adjustment during the period of execution of the contract, if provided in the tender.

23.3 The comparison shall be of the ex-factory/ex-warehouse/off-the-shelf price of the goods offered from within Kenya, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods.

23.4 The evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors, in the manner and to the extent indicated in paragraph 23.5 and in the technical specifications:

- (a) Delivery schedule offered in the tender;
- (b) Deviations in payment schedule from that specified in the Special Conditions of Contract;
- (c) The cost of components, mandatory spare parts, and service;
- (d) The availability in Kenya of spare parts and after-sales services for the equipment offered in the tender;

23.5 Pursuant to paragraph 23.4 the following evaluation methods will be applied:

- (a) *Delivery schedule.*
  - (i) UTaNRMP requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries longer than UTaNRMP'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 of 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. UTaNRMP may consider the alternative payment schedule offered by the selected tenderer.

- (c) *Spare parts and after sales service facilities.*

Tenderers must offer items with service and spares part back up. Documentary evidence and locations of such back- up must be given. Where a tenderer offers items without such back-up in the country, he must give documentary evidence and assurance that he will establish adequate back-up for items supplied.

## **23.6 Preference**

23.6.1 For purposes of section 39(4) (d) of the Public Procurement and Disposal Act, public entities shall grant exclusive preference to local contractors offering–

- (a) motor vehicles, plant and equipment that are assembled in Kenya;
- (b) construction material and other material used in the transmission and conduction of electricity of which such material is made in Kenya;

(c) furniture, textiles, foodstuffs and other goods made or locally available in Kenya.

23.6.2 For the purposes of section 39(8) (a) (ii) of the Public Procurement and Disposal Act, the threshold below which exclusive preference shall be given to citizen contractors, shall be the sum of –

(a) one billion shillings for procurements in respect of road works, construction materials and other materials used in transmission and conduction of electricity of which the material is made in Kenya;

(b) five hundred million shillings for procurements in respect of other works;

(c) one hundred million shillings for procurements in respect of goods; and

(d) fifty million shillings for procurements in respect of services.

23.6.3 For the purpose of benefiting from preference and reservations schemes, an enterprise owned by youth, women or persons with disabilities shall be a legal entity that—

(a) is registered with the relevant government body; and

(b) has at least seventy percent membership of youth, women or persons with disabilities and the leadership shall be one hundred percent youth, women and persons with disability, respectively

23.6.4 For the purpose of ensuring sustainable promotion of local industry, all foreign tenderers participating in international tenders shall source at least forty percent of their supplies from citizen contractors. Tenderer shall provide documentary evidence to assure UTaNRMP of compliance with the requirements.

## **24. Contacting UTaNRMP**

24.1 Subject to paragraph 21, no tenderer shall contact UTaNRMP on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

24.2 Any effort by a tenderer to influence UTaNRMP in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender's bid proposal.

## **25. Award of Contract**

### **Post-qualification**

25.1 In the absence of pre-qualification, UTaNRMP 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.

25.2 The determination will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the tenderer, pursuant to paragraph 12.3, as well as such other information as UTaNRMP deems necessary and appropriate.

25.3 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 UTaNRMP will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

## **26. Award Criteria**

26.1 Subject to paragraph 10,23 and 28 UTaNRMP 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.

## **27. UTaNRMP's Right to Vary quantities**

27.1 UTaNRMP 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.

## **28. UTaNRMP Reserves Right to Accept or Reject Any or All Tenders**

28.1 UTaNRMP 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 UTaNRMP's action.

## **29. Notification of Award**

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

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

29.3 Upon the successful Tenderer's furnishing of the performance bond pursuant to paragraph 31, UTaNRMP will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 14.

## **30. Signing of Contract**

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

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

### **31. Performance bond**

31.1 Within fourteen (14) days of the receipt of notification of award from UTaNRMP, the successful tenderer shall furnish the performance bond in accordance with the Conditions of Contract, in the Performance bond Form provided in the tender documents, or in another form acceptable to it (UTaNRMP).

31.2 Failure of the successful tenderer to comply with the requirement of paragraph 30 or paragraph 31 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event UTaNRMP may make the award to the next lowest evaluated Candidate or call for new tenders.

### **32. Corrupt and Fraudulent Practices**

32.1 UTaNRMP requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, UTaNRMP:-

(a) Defines, for the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of UTaNRMP, 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 UTaNRMP of the benefits of free and open competition;

(b) will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

(c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.

32.2 Furthermore, tenderers shall be aware of the provision stated in the General Conditions of Contract.

## Appendix to the General 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 tenderers
<b>22.1: Preliminary Evaluation</b>	<p>The Tenderer <b>MUST</b> submit as part of its bid, <b>SAMPLES OF THE ITEMS</b> they offer to supply which are returnable after award.</p> <p>All documentation catalogues and Manufacturers' Authorizations <b>MUST</b> accompany the bid. KBS certificates <b>MUST</b> be attached.</p>
<b>26.1: Award criteria</b>	<p>The award will be made on a <b>LOT-TO-LOT BASIS</b>.</p> <p>The items in a lot are clearly shown in the schedule of requirements</p> <p>Bidders must qualify technically for all items in the lot to qualify for award in that lot</p>



## **Section C:-General Conditions of Contract**

### **1. Definitions**

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

- (a) “The Contract” means the agreement entered into between UTaNRMP 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 Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to UTaNRMP under the Contract.
- (d) “UTaNRMP” means Upper Tana Natural Resources Management Project in the Ministry of Environment, Water and Natural Resources, which is the organization purchasing the Goods under this Contract.
- (e) “The tenderer” means the individual or firm supplying the Goods under this Contract.

### **2. Application**

2.1 These General Conditions shall apply in all Contracts made by UTaNRMP for the procurement of goods.

### **3. Country of Origin**

3.1 For purposes of this Clause, “origin” means the place where the Goods were mined, grown, or produced.

3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

### **4. Standards**

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

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

5.1 The Candidate shall not, without UTaNRMP’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 UTaNRMP in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

5.2 The tenderer shall not, without UTaNRMP prior written consent, make use of any document or information enumerated in paragraph 5.1 above.

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

## **6. Patent Rights**

- 6.1 The tenderer shall indemnify UTaNRMP against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Kenya.

## **7. Performance bond**

- 7.1 Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to UTaNRMP the performance bond in the amount specified in Special Conditions of Contract.
- 7.2 The proceeds of the performance bond shall be payable to UTaNRMP as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 7.3 The performance bond shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to UTaNRMP and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to UTaNRMP, in the form provided in the tender documents.
- 7.4 The performance bond will be discharged by UTaNRMP and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

## **8. Inspection and Tests**

- 8.1 UTaNRMP or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications. UTaNRMP shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. 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 UTaNRMP.
- 8.3 Should any inspected or tested Goods fail to conform to the Specifications, UTaNRMP may reject the Goods, and the tenderer shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to UTaNRMP.
- 8.4 UTaNRMP's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by UTaNRMP or its representative prior to the Goods' delivery.
- 8.5 Nothing in paragraph 8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

## **9. Packing**

- 9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract.

## **10. Delivery and Documents**

- 10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by UTaNRMP in its Schedule of Requirements and the Special Conditions of Contract.

## **11. Insurance**

- 11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract

## **12. Payment**

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

## **13. Prices**

- 13.1 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.

## **14. Assignment**

- 14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with UTaNRMP's prior written consent.

## **15. Sub-contracts**

- 15.1 The tenderer shall notify UTaNRMP 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.

## **16. Termination for Default**

- 16.1 UTaNRMP 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 UTaNRMP.

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

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

### **17. Liquidated Damages**

17.1 If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, UTaNRMP 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 goods up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

### **18. Resolution of Disputes**

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

18.2 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 forum using the laws of the Republic of Kenya.

### **19. Language and Law**

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

### **20. Force Majeure**

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

## Section D. Special Conditions of Contract

### General

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

#### 1.0 Definitions (Clause 1.1)

**The Purchaser is:**

The Upper Tana Natural Resources Management Project (UTaNRMP)  
P. O. Box 996-60100  
EMBU

#### 2.0 Inspection and Tests (Clause 8)

The Tenderer **MUST** submit as part of its bid, **SAMPLES OF THE ITEMS** they offer to supply. All documentation catalogues and manufacturers' Authorizations must accompany the bid.

#### 3.0 Delivery and Documents (Clause 10)

The materials and goods shall be delivered as indicated to **KWS Embu Station, in Embu Town. The desired delivery period is 30 days from date of award of tender**

#### 4.0 Payment (Clause 12)

One Hundred (100) percent of the contract price of the materials and goods delivered shall be paid upon the delivery, inspection, testing and acceptance of the same by a verification and acceptance committee appointed by the purchaser.

#### 5.0 Resolution of Disputes (Clause 18)

In case of a dispute between the Purchaser and the Supplier, the dispute shall be referred to Arbitration in accordance with the arbitration laws of Kenya.

#### 6.0 Notices (Clause 19)

For the purposes of this Sub-Clause, the respective addresses are:

The Purchaser:  
**The Project Coordinator**  
**UTaNRMP**  
**P. O. Box 996-60100**  
**EMBU.**

**Section E. SCHEDULE OF REQUIREMENTS AND PRICE SCHEDULE (Inclusive of all taxes)**

**BILL OF QUANTITIES FOR 40KM OF MT KENYA FOREST RESERVE AND NATIONAL PARK FENCE MATERIALS IN LOTS**

<b>MATERIALS</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>RATE</b>	<b>AMOUNT (KShs)</b>
	<b>LOT 1</b>				
1	Line Posts	4800	No		
2	Strainer Posts	1200	No		
	<b>Total</b>				
	<b>LOT 2</b>				
3	2.5mm HTS plain wire (25Kg and 650m long rolls)	500	Rolls		
4	Soft Wire 4.0mm	30000	Mts		
5	Tight Lock Mesh Wire, (100m long roll)	400	Rolls		
	<b>Total</b>				
	<b>LOT 3</b>				
6	Flood Gate Controller	16	No		
7	Porcelain reel Insulators	2000	No		
8	Porcelain strain wires	3200	No		
9	Ring fasteners (1000 fasteners per packet)	200	Pkts		
10	W-Insulators	44800	No		
11	Earth Pegs	260	No		
12	Under gate cables	10	Rolls		

<b>MATERIALS</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>RATE</b>	<b>AMOUNT (KShs)</b>
13	Lightening arrester	6	No		
	<b>LOT 4</b>				
14	Energizer 16 joules stored energy	6	No		
15	Solar Panel 140 watts	6	No		
16	Solar Batteries 100AH	6	No		
17	Charge Regulators	6	No		
18	Hatari Signs	400	No		
19	Spring Gates	20	No		
20	Joint Clamps	3200	No		
21	Cut Out Switch	8	No		
	<b>Total</b>				
	<b>LOT 5</b>				
22	Staples(U-Nails)	2000	Kg		
23	125mm Wire nails	2000	Kg		
24	Barbed wire, 300m long rolls	40	Rolls		
25	PVC pipes 25mm dia.	30	No		
	<b>Total</b>				

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

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

Name and Capacity of authorised person signing the Tender \_\_\_\_\_

Signature of authorised person signing the Tender\_\_\_\_\_

Stamp of Tenderer\_\_\_\_\_



## Section F. Technical Specifications

### GENERAL

1. These specifications describe the basic requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc. for the products they intend to supply.
2. Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.
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. UTaNRMP reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.
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.

### Detailed Technical Specifications

#### MATERIAL SPECIFICATION FOR MT. KENYA FOREST RESERVE AND NATIONAL PARK FENCE

All materials to be used in fence construction must conform to the following specifications.

##### 4.2.4.1 Posts

###### a) **Wooden Posts**-strainers

All wooden posts shall be of hardwood wattle, eucalyptus or equivalent pressure treated in creosote or celcured in copper tanalith to the chemical penetration of at least 1" (25mm). Size shall be at least 6-7" diameter, length 10ft

###### b) **Wooden Posts**-line posts

All wooden posts shall be of hardwood wattle or eucalyptus pressure treated in creosote or celcured in copper tanalith to the chemical penetration of at least 1" (25mm). Size shall be at least 5-6" diameter, length 10ft

###### c) **Plastic Posts**-line posts

All plastic posts shall be of hard plastic which conforms with the Kenya standards of BS 2782 on mechanical properties and BS 6233 on resistivity of solid electrical insulating materials.

- (i) Shall have tensile strength of not less than 20N/mm<sup>2</sup>.
- (ii) Size shall be not less than 150mm diameter.

#### **4.2.4.2 Wire**

##### **a) Plain Wire 2.5mm HTS**

Plain wire to be used shall be:-

- (i) High tensile steel wire of steel class BS 1044 or BS 1065
- (ii) Size for live and earth wires shall be 2.5mm diameter with a tolerance of 0.02mm
- (iii) Shall have a tensile strength of 1200-1400N
- (iv) Shall have a weight of zinc coating of not less than 280gm/m<sup>2</sup>.Gauge 12.5

##### **b) Plain wire HTS 1.6mm diameter**

Plain wire to be used shall be:-

- (i) High tensile steel wire of steel class BS 1044 or BS 1065
- (ii) Size for baboon proof wires shall be 1.6mm diameter with a tolerance of 0.02mm
- (iii) Shall have a tensile strength of 1200-1400N
- (iv) Shall have a weight of zinc coating of not less than 280gm/m<sup>2</sup>.Gauge 12.5
- (v) Gauge 12.5

##### **b) Stay Wire**

- (i) Shall be of mild steel wire
- (ii) Shall have weight of zinc coating of not less than 280gm/m<sup>2</sup>
- (iii) Size shall be **4.0mm** diameter mainly used for stay and cross wire on a strainer assembly

##### **c) Lead Wire (under gate cables)**

- (i) Shall be double insulated in tough polyethylene insulating material
- (ii) Shall have a lead wire of 1.6mm diameter
- (iii) Shall have a lead wire of copper or aluminium
- (iv) Shall have resistance of 350 ohms per km

##### **d) TIGHT LOCK Mesh Wire**

- (i) Size of wires – 2.5mm(nominal diameter)
- (ii) High Tensile Steel Class BS 1044, or BS.1065
- (iii) 280gm/m<sup>2</sup> weight of zinc coating of wires
- (iv) Tensile Strength 1200-1400N/m<sup>2</sup>
- (v) Mesh size 100-150mm

#### **4.2.4.3 Nails**

Nails shall be heavily galvanized wire nails.

Staples (U-nails) shall be:

- (i) Heavily galvanized
- (ii) Long shank
- (iii) 2 inch
- (iv) Hot dipped

#### **4.2.4.4 Insulator**

##### **a) Line Insulators**

- (i) W-Insulators
- (ii) Polyethylene material
- (iii) Open-face for good drainage
- (iv) With holes for anchoring staples
- (v) Made of UV protected PVC material

##### **b) Strain end Insulators**

- (i) Bull nose type
- (ii) Porcelain material
- (iii) Fire resistant
- (iv) Long tracking distance
- (v) High quality glaze finish

##### **c) Corner and Line Insulator**

- (i) Reel round Insulator
- (ii) Porcelain material
- (iii) Fire resistant
- (iv) High quality glaze finish

#### **4.2.4.5 Energizers**

##### **a) Solar Powered energizers**

- (i) Shall be fully modular
- (ii) 16 joules stored energy
- (iii) In built lightning protection

##### **b) Electric Mains Powered Energizer**

- (i) Shall be fully modular
- (ii) 40joules stored energy
- (iii) In built lightning protection
- (iv) Remote controlled stopping for ease of fence maintenance

#### **4.2.4.6 Others**

##### **a) Lightning Diverter**

At all places where energizers are installed there shall be a lightning diverter

- (i) Standard Lightning diverter is completed with spiral wire earthing system connection

- (ii) Not less than 30amps
- b) Earth peg**
  - (i) 2mx20mm diameter GI pipe class C
  - (ii) With a heavily galvanized joint clamp 200mm below the upper tip.
- c) Solar Panel**
  - (i) Shall be mono crystalline type.
  - (ii) 140 watts
- d) Solar Battery**
  - (i) 12 volts
  - (ii) Heavy duty
  - (iii) Deep cycle
  - (iv) Rechargeable/maintenance free
  - (v) 100AH
- e) Charge Controller**
  - (i) Not less than 30amps
- f) Warning signs**
  - (i) Shall be made of UV protected PVC plate
  - (ii) Size 200mmx100mm
  - (iii) Colour shall be bright yellow
  - (iv) Inscription written in black ELECTRIC FENCE
  - (v) Eligible with lettering not less than 25mm in height
  - (vi) A legal requirement for all electric installations
- g) Spring Gates**
  - (i) Shall be bright coloured spiral wire (white)
  - (ii) Shall have Plastic bright coloured handle
- h) Joint Clamp**
  - (i) Shall be made of aluminium
  - (ii) Or mild steel heavily galvanized
  - (iii) With space for wire grip



**Section G. Standard Tender Forms**

**(i) Form of Tender**

Date: \_\_\_\_\_

Tender N°: \_\_\_\_\_

To: THE PROJECT COORDINATOR  
UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT  
P.O. BOX 996-60100, EMBU

Gentlemen and/or Ladies:

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

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 the goods 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 equivalent to \_\_\_\_\_  
percent of the Contract Price for the due performance of the Contract, in the form prescribed by  
UTaNRMP.

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. Until a formal Contract is prepared and executed, this Tender, together with your written  
acceptance thereof and your notification of award, shall constitute a binding Contract between  
us.

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 and on behalf of \_\_\_\_\_

(ii) BUSINESS QUESTIONNAIRE: FORM 2 Serial No.....

TENDER NO .....

SUPPLY AND DELIVERY OF.....

Name of the firm ..... Date issued.....

The information provided in this form will enable UTaNRMP to assess your eligibility to participate in the tendering process and your competence in supplying the goods and services in the tender. UTaNRMP shall verify the information provided and candidates should note that submission of false information will lead to automatic disqualification.

**A: GENERAL INFORMATION:**

1.1 Business Name: .....

1.2 Date Of Registration.....

Indicate the form of Business:.....

1.3 (a) Sole Proprietor..... (b) Partnership..... (c) Company.....

1.4 What businesses are you licensed to operate?  
.....

1.5 Postal Address ..... Tel No .....

Fax: .....

Cell Phone.....

Email ..... Web page.....

1.6 Location of business premises:

Street/Road..... Building and Floor..... Plot

No .....

Is the premises Permanent/Temporary?.....  
Residential/Office/shop/warehouse?.....

- 1.7 Current Trade License No ..... Expiring date.....
- 1.8 Who are your Principal Bankers ..... Branch .....
- 1.9 Details of business registration: Please complete the relevant section.

**Part 1.9 (a) – Sole Proprietor**

Your name in full .....

Are you a Kenya Citizen?.....If not, what is your Nationality .....

**Part 1.9(b) – Partnership/Registered company**

Country of incorporation.....Date.....

	NAME OF PARTNERS/SHARE	NATIONALITY	CITIZENSHIP	OWNERSHIP
1				
2				
3				
4				



**B: ELIGIBILITY:**

- 2.2 Have you or your principals been subject of legal proceedings for insolvency, Bankruptcy, receivership or your business activities suspended for related reasons?.....if yes, when? .....[if yes, You must present legal documentary evidence that you are cleared and your business is now solvent].
- 2.3 Have you fulfilled your obligations to pay taxes and social security contributions for the last three years? Yes.....No.....(*tick*)
- 2.4 Are you or your servants or agents subject of legal proceedings (attached documentary evidence for the respective Government Agents) or have been debarred or suspended for corrupt or unethical business practice. Yes.....No.....
- 2.5 Is the firm making this application or any of its directors been debarred or suspended from participating in public procurement or have any Procurement Entity initiated proceedings of that nature against the firm or one of its Directors, for any reason whatsoever? Yes.....No.....

**You must attach copies of your**

- 1. Business Registration Certificate,
  - 2. VAT certificate,
  - 3. PIN Number and
- the recent 3 years Audited Accounts copies of the bank statements for the last 6 months for your application to be considered.

**C: CAPABILITY AND COMPETENCE TO DELIVER GOODS OR SERVICE:**

- 2.6 What products/service do you want to be considered for.....
- 2.7 How many employees do you have? .....How many are Permanent? .....How many are Temporary?.....
- 2.8 What is the country of origin for those goods or services?.....
- 2.9 Are you a manufacturer/wholesaler/retailer/other (please specify).....
- (a) If you are a manufacturer or a service organization, are your products certified by the Kenya Bureau of Standards or are you affiliated to a recognized accrediting body? Yes.....No.....[Please attach documentary evidence of the current certification].
- (b) If you are not a manufacturer, are you an authorized dealer? Yes.....No.....*please attach documentary evidence of the authority from the manufacturer]*
- 2.10 Who are your major customers/clients and what is their telephone contact?
- To what extent is your firm e-enabled with both your suppliers and clients and how do you intend to carry out business with UTaNRMP?
  - What is your average response time to a request quotation, Delivery of goods after issuance of LPO?

	NAME OF	VALUE OF	CONTACT	TEL NO
1				
2				
3				
4				
5				

- 2.11 What is the Maximum value of business which you can handle at any one time: Kshs.....
- 2.12 If your firm is pre-qualified or awarded the tender, will you abide by the agreed delivery period and supply goods or service within the given specifications by UTaNRMP? Yes .....No.....?

**D: PAST AND CURRENT PERFORMANCE AND EXPERIENCE**

2.13 Is this firm or its directors in any way associated with any other firm that is currently conducting business with or have applied to be considered for pre-qualification or any other tender in UTaNRMP? If yes, please provide the name(s) of those firm(s), their address, their nature of business and indicate the relationship with the company making this application.

Name of Firm	Address	Nature of Business	Relationship

2.14 Is the firm making this application currently or in previous periods been contracted to supply goods or services to UTaNRMP? Yes.....No..... If yes, please indicate hereunder the financial year, the goods or services that you supplied and their total value.

Financial	Goods or service supplied	Total value

2.15 Have you at any one time been issued with a Purchase Order by the UTaNRMP and failed to deliver the goods or service without assigning any reason for your action?  
Yes.....No.....

2.16 Have you at any one time been requested to quote for supply of goods and services and failed to return the quotation without assigning any reason for your action?  
Yes.....No.....

2.17 If you are a current or previous period supplier of goods or service to UTaNRMP, have you at any one time been issued with a letter of cancellation of LPO for failure to supply goods within the agreed time or for supplying inferior goods not within the specifications?  
Yes.....No.....

2.18 I .....the applicant or the authorized person to make this application on behalf of [name of

company].....does hereby declare that  
the information provided is true and correct.

2.19 The Position in the company of the person making this  
application.....

Signature.....Date.....

OFFICIAL STAMP HERE:

iii) 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 of.....  
*[name and/or description of the goods]*

(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 UTaNRMP (hereinafter called “Upper Tana natural Resources Management Project”) in the sum of ..... for which payment well and truly to be made to the said UTaNRMP, 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 UTaNRMP 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 bond, in accordance with the Instructions to tenderers;

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

This guarantee will remain in 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]*

Section H: Goods Supply Contract



REPUBLIC  
OF  
KENYA



Poverty Reduction Through Sustainable NRM



**IFAD**  
INTERNATIONAL  
FUND FOR  
AGRICULTURAL  
DEVELOPMENT

MINISTRY OF ENVIRONMENT, WATER AND NATURAL RESOURCES

**CONTRACT FOR THE SUPPLY AND DELIVERY OF ELECTRIC FENCE  
MATERIALS, PLASTIC AND WOODEN POSTS FOR MT. KENYA FOREST  
RESERVE AND NATIONAL PARK**

Between

UTaNRMP

GOVERNMENT OF KENYA

---

UPPER TANA NATURAL RESOURCES MANAGEMENT PROJECT (UTaNRMP) P.O BOX 996-60100 EMBU.

And

----- (*insert name of tenderer*)

Dated: .....

## I. FORM OF CONTRACT

This CONTRACT (hereinafter called the “Contract”) is made the ..... of the month of .....2014, between, on the one hand, **GOVERNMENT OF KENYA (Upper Tana Natural Resources Management Project (UTaNRMP)** (hereinafter called the “Client”) and, on the other hand, ..... (hereinafter called the “tenderer/supplier”).

### WHEREAS

- a) The Client has requested the tenderer to supply fencing materials as defined in this Contract (hereinafter called the “goods”)
- b) The tenderer, having represented to the Client that the firm has the required technical capacity, materials, personnel and financial resources, have agreed to provide the goods on the terms and conditions set forth in this Contract;

**NOW THEREFORE** the parties hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
  - a) THE GENERAL CONDITIONS OF CONTRACT;
  - b) PIN NO
  - c) TERMS OF REFERENCE
  - d) VAT CERTIFICATE
  - e) Performance Bond 5% of the contract price in form of bank guarantee
  - f) Bank Details : Bank Name, Bank Branch, A/c Name, A/C No Swift Code which must be printed on your letter head
  - g) Specifications
  - h) Bill of quantities
  - i) Drawings
2. The mutual rights and obligations of the Client and the tenderer shall be as set forth in the Contract, in particular:

- (a) The Consultant shall supply the goods in accordance with the Provisions of the Contract; and
  - (b) The Client shall make payments to the Consultant in accordance with the Provisions of the Contract.
- IN WITNESS WHEREOF**, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of (UTaNRMP)

NAME: .....

PROJECT COORDINATOR

Date: .....

Signed.....

**IN THE PRESENCE OF**

NAME: ..... Designation: PROCUREMENT OFFICER - **Witness**

Date: .....

Signed .....

For and on behalf of (.....)

NAME: .....

Date: .....

Signed.....

**IN PRESENCE OF**

NAME: ..... Designation: ..... **Witness**

Date:.....

Signed.....



## II. General Conditions of Contract

<b>1.0 GENERAL PROVISIONS</b>	
<b>1.1: Definitions</b>	<p>Unless the content otherwise requires, the following terms whenever used in this Contract have the following meanings:</p> <ul style="list-style-type: none"><li>(a) "Client" Means "The government of Kenya "represented by the Upper Tana Natural Resources Management Project by who the tendering firm is employed for the purpose of fulfilling the Agreement.</li><li>(b) The Project Coordinator means, the head of Project Coordination Team of UTaNRMP, who is also the Project Chief Executive Officer appointed by the "Client" to deal between the consulting firm and the client on all matters arising out of this agreement.</li><li>(c) "Tenderer" Means the firm appointed as set forth under the Contract of agreement to this Agreement</li><li>(d) "Goods" Means the supply of goods set out in the Tender Document referred to this Agreement as being the subject of implementation</li><li>(e) "Applicable Law" means the laws and any other instruments having the force of law in the Government's country as they may be issued and in force from time to time;</li><li>(f) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached;</li><li>(g) "Contract Price" means the price to be paid for the supply of the goods;</li><li>(h) "Foreign currency" means any currency other than the currency of the Government;</li><li>(i) "GC" mean these General Conditions of Contract;</li><li>(j) "Government" means the Government of the Client's country;</li><li>(k) "Local currency" means the currency of the Government;</li><li>(l) "Party" means the Client or the tendering firm, as the case may be and "Parties" means both of them;</li><li>(m) "Personnel" means persons hired by the tenderer or by any Sub-consultant as employees and assigned to the supply of the goods or any part thereof;</li><li>(n) "Sub consultant" means any person or to whom/which the tenderer subcontract any part of the Services.</li></ul>

<b>1.2 Law Governing</b>	This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
<b>1.3: Supply of Goods</b>	The supply of goods shall be defined in the specifications and quantities for the purposes of this contract
<b>1.4: Contract Language</b>	Any notice request required or permitted to be given or made under this contract shall be in writing in the English language. Such notice or request shall have been delivered by hand, mail or cable to the party, which is required to be given
<b>1.5: Location</b>	The goods/materials shall be supplied at KWS Embu Station, Embu Town
<b>1.6: Authorized Representatives</b>	Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the tenderer may be taken or executed by the official's representative.
<b>1.7: Taxes and Duties</b>	Unless otherwise specified, the tenderer and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.
<b>1.8: Care and Diligence</b>	The tendering firm shall exercise all reasonable skill, care and diligence in the supply of the goods/materials agreed with the client, and shall not authorize any modification of the goods which results in the cost exceeding the approved contract sum
<b>1.9: Amendments Procedures</b>	Any changes, modifications or amendments to this Agreement except as specifically provided for herein, shall be made only by mutual agreement in writing between the parties hereto. This may be done in form of a memorandum, which shall be integrated as a part of the Agreement. Amendment of the contract price of the Agreement in both local and or foreign price shall be made only by mutual agreement in writing between the parties hereto.
<b>1.10: Changes of Law.</b>	If, in the country there should occur, subsequent to the date of this Agreement, changes to any National or state Statute, Ordinance, Decree, Law Regulation or By-law which causes additional or decreased cost to the tendering firm in the supply of the goods, such additional or reduced cost shall be paid by the client.
<b>2. COMMENCEMENT, COMPLETION, AND MODIFICATION AND TERMINATION OF CONTRACT</b>	

<b>2.1: Effectiveness of Contract</b>	This Contract shall come into effect on the date the Contract is signed by both parties. The date the Contract comes into effect is defined as the Effective Date.
<b>2.2: Commencement of supplying the goods</b>	The tenderer shall begin supplying the goods with effect from the date of signing the contract
<b>2.3 : Expiration of Contract</b>	Unless terminated earlier, this Contract shall terminate at the end of such time period after the Effective Date as is agreed between the client and the tenderer ( 60 days in this case)
<b>2.4 : Modification or Variations</b>	Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the quantities of goods to be supplied, may only be made by written agreement between the Parties.
<b>2.5: FORCE MAJEURE</b>	
<b>2.5.1: Definition</b>	For the purposes of this Contract, “ <i>Force Majeure</i> ” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
<b>2.5.2: No Breach of Contract</b>	The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
<b>2.5.3: Extension of Time</b>	Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
<b>2.5.4: Payments</b>	During the period of their inability to supply the goods as a result of an event of Force Majeure, the Tenderer shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the reserving goods and in reactivating the supply after the end of such period.

<b>2.6 Termination</b>	
<b>2.6.1: Termination/ Suspension by Notice of the Client</b>	<p>The client may by written notice to the tendering firm at any given prior notice of his intention to suspend or abandon the supply of goods in whole or in part, to terminate this Agreement. The effective date of suspension or abandonment of Agreement shall not be less than thirty (30) days after period as may be agreed between the parties. Upon receipt of such notice, the tendering firm shall take immediate steps to bring the supply of the goods to a close and reduce expenditures to a minimum. The Client may also with a written notice suspend the supply of the goods in this Agreement in whole or part if conditions have arisen which, in the reasonable opinion of the client, interfere or threaten to interfere with the ability to successfully carry out the services or the accomplishment of the purposes of the Agreement.</p> <p>The effective date of suspension and action to be taken by the tendering firm upon receipt of the notice shall be the same as for issuance of notice for suspension or abandonment of termination described in the preceding paragraph of this clause.</p> <p>Upon suspension or abandonment of this Agreement, in whole or in part, to its termination and subject to the obligation of the consulting firm to reduce expenditure to a minimum as stated in paragraph of this clause, the tendering firm shall be entitled to receive the remuneration due up to the effective date of suspension or abandonment or termination.</p>
<b>2.6.2: Ownership of Document and Copyright.</b>	All documents prepared by the client in connection with the supply of the goods are the property and copyright of the client, and the tendering firm shall not be entitled, either directly or indirectly to make use of such documents for the carrying out of any work beyond the services to which this Agreement relates, without prior approval of the client.
<b>2.6.3: Arbitration On this Agreement</b>	Any dispute or difference arising out of this Agreement which cannot be settled amicably shall be referred to the arbitration of a person to be agreed upon between the tendering firm and the client or failing agreement, of some person appointed by the Chief Justice, Kenya
<b>2.6.4 Jurisdiction</b>	This Agreement shall be governed by and construed in all respects in accordance with the Laws of Kenya
<b>3.0 OBLIGATIONS OF CONSTRUCTION FIRM</b>	

3.1: General.	The tendering firm shall supply the goods and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advance technology and safe and effective equipment, machinery, materials and methods. The Tenderer shall always act, in respect of any matter relating to this Contract or to the supply of the goods, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub- consultant or third parties.
3.2: Duties of Tendering Firm	The tendering firm shall supply the goods as per the stated specifications and as per the agreed delivery site.
3.3: Insurance.	The tendering firm shall take out and maintain adequate insurance against loss of or damage to the goods, personnel and equipment.
<b>4.0 OBLIGATION OF THE CLIENT</b>	
4.1 Assistance and Exemptions	The Client shall use its best effort to ensure that the Government of Kenya shall provide the tenderer such assistance and exemptions.
<b>5.0 PAYMENT TO THE CONSULTANT</b>	
5.1: Mode of Payment	The Tendering firm shall be paid 100% upon the successful supply and delivery of the stated goods
5.2: Interest on Delayed Payments	If the Client has delayed payments beyond ninety (90) days, interest may be paid to the Tendering firm for each day of delay at the rate 1 point above the inter-bank lending rates as published by the Central Bank of Kenya.
5.3: Contract Price	The government shall pay the tendering firm for supply of the goods delivered under this Agreement in amount of <b>KSHS. ....</b> <b>(.....in words INCLUSIVE OF VALUE ADDED TAX )</b> <b>which will be paid in one installment as per clause 5.1</b>
5.4 Terms and Conditions of Payment	(a) The contract price will be paid to the tendering firm upon satisfactory completion of supplying and delivering the agreed goods. The payment shall be made against a certificate for goods supplied and delivered which shall be certified by a clients' appointed inspection, verification and

	<p>acceptance committee as goods supplied and acceptable to the client</p> <p>(b) All payments will be made to the consulting firm within 90 days after the Submission of their claim to the Project Coordinator in accordance with this clause.</p> <p>If the payment is not made within time specified directly above (a) interest equivalent to <b>1 point above the inter-bank lending rates as published by the Central Bank of Kenya</b> shall be charged on the unpaid due balance as of the due date. No other contingencies will be considered during this assignment except those arising in circumstances already agreed upon, or as result of definite change in costs or extension of the said contract by the client.</p>
<b>6.0 GOOD FAITH</b>	
<b>6.1 Commitment to Good Faith principle</b>	The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure realization of the objectives of this Contract.
<b>7.0 SETTLEMENT OF DISPUTES</b>	
<b>7.1 Amicable Settlement</b>	The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation
<b>7.2 Arbitration</b>	In case the parties cannot arrive at an amicable solution in a dispute, then the parties can agree on arbitration using the laws of Kenya

**v) Performance Bond Form**

To: UTANRMP

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 there in 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 figures]*, 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 your 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\_\_\_\_\_.

Signature and seal of the Guarantors

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

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

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

**vi) Manufacturer's Authorization Form**

To: *UTaNRMP*

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.

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*[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 competent person.