



**THE TECHNICAL UNIVERSITY OF KENYA**

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**STANDARD TENDER DOCUMENT  
RESTRICTED TENDER FOR LEASING OF STUDENT CENTER TU-K SHOPS  
NUMBER 4,6,9,10,20 (FOR TU-K STUDENTS ONLY)**

**TUK/T/09/2024/2025 TENDER DOCUMENTS FOR LEASING OF SPACE**

**1) NAME AND CONTACT ADDRESSES OF PROCURING ENTITY**

TECHNICAL UNIVERSITY OF KENYA

P.O BOX 52428-00200

NAIROBI-KENYA

Email: director.sco@tukenya.ac.ke

**2) Invitation to Tender (ITT) Tender No. TUK/T/09/2024/2025**

**2) Tender Name: TENDER FOR LEASING OF STUDENT CENTER TU-K SHOPS  
NUMBER 4,6,9,10,20 (RESTRICTED TENDER)**

**13<sup>th</sup> SEPTEMBER 2024**

**1. INVITATION TO TENDER**

**2. PROCURING ENTITY: TECHNICAL UNIVERSITY OF KENYA**

**3. CONTRACT NAME AND DESCRIPTION: LEASING OF STUDENT CENTER TUCK SHOPS**

**4. The TECHNICAL UNIVERSITY OF KENYA invites sealed tenders for the LEASING OF STUDENT CENTER TUCK SHOPS for the year 2024- 2025 to TECHNICAL UNIVERSITY OF KENYA**

5. Tendering will be conducted under open competitive method (**Internal**) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
6. Tendering is open to all students of the Technical University of Kenya
7. Tenderers will be allowed to tender for only one shop.
8. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours 0800 to 1700 hours at the address given below.
9. Tender documents may be obtained electronically from the Website ([www.tukenya.ac.ke](http://www.tukenya.ac.ke)) free of charge.
10. All Tenders must be accompanied by a “*Tender-Securing Declaration,*” form
11. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
12. Completed tenders must be delivered to the address below on or before **26<sup>th</sup> September 2024 at Time:11.00 a.m.** Electronic Tenders will not be permitted.
13. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
14. Late tenders will be rejected.
15. The addresses referred to above are:

**A. Address for obtaining further information and for purchasing tender documents**

TECHNICAL UNIVERSITY OF KENYA

BOX 52428 -00200

NAIROBI

- i. Procurement Office, phone Tel: +254(020) 2219929, 3343672 , email: [director.sco@tukenya ,ac.ke](mailto:director.sco@tukenya.ac.ke).

**B.Address for Submission of Tenders.**

VICE CHANCELLOR

TECHNICAL UNIVERSITY OF KENYA

Postal Address P.O BOX 52428-00200

NAIROBI

- 1) Tender documents should be dropped in the Tender Box at the administration block.

**C.Address for Opening of Tenders.**

TECHNICALUNIVERSITY OF KENYA

PO BOX 52428-00200, NAIROBI

**PROF.BENEDICT M.MUTUA, PhD**

**Designation**

**VICE CHANCELLOR**

**Signature** .....

**Date**

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# SECTION I – INVITATION TO TENDER

**NOTICE DATE:** *Tuesday, June 4<sup>th</sup>, 2024*

**TENDER REF. NO:** TUK/T/09/2024/2025

## **TENDER NAME: TENDER FOR LEASING OF STUDENT CENTRE SHOPS IN TECHNICAL UNIVERSITY OF KENYA (FRAMEWORK AGREEMENT)**

The Technical university of Kenya invites sealed tenders from eligible candidates for the **LEASING OF STUDENT CENTRE SHOPS IN TECHNICAL UNIVERSITY OF KENYA (FRAMEWORK AGREEMENT)**

1. Interested eligible candidates may obtain further information from and inspect the tender documents at **the dean of students' office, Administration Block 4<sup>th</sup> Floor, Main campus** during normal working hours.
2. A complete set of tender documents may be obtained by interested candidates at the dean of students' office, Administration Block 4<sup>th</sup> Floor, Main campus during normal working hours.
3. Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of (120) days from the closing date of the tender
5. **This is a one-year leasing contract.**
6. **Your documents will be subjected to verification by relevant Statutory Authorities**
7. Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and name be deposited in the Tender Box at **The Main Campus, dean of students' office, Administration Block** so as to be received on or Before **Thursday 26<sup>th</sup> September 2024 at 10.00am.**
8. Tenders will be opened immediately thereafter in the presence of bidders or their representatives who choose to attend the opening at the **Dean of Students' office.**
9. **Late bids will be rejected and returned unopened. Dean of Students of *The Technical university of Kenya reserves the right to accept or reject a tender in whole or in part. Canvassing will lead to automatic disqualification.***

## INTRODUCTION

- 1.1 This standard tender document for the procurement services has been prepared for use by procuring entities in Kenya. It is to be used in the procurement of all types of services e.g.
  - i. Security.
  - ii. Cleaning.
  - iii. Servicing and repairs.
  - iv. Transport.
  - v. Clearing and forwarding.
  - vi. Air ticketing and travel arrangements and all others where there is no specific standard tender document for procurement of that service.
- 1.2 The following general directions should be observed when using the document.
  - a) Specific details should be finished in the invitation to tender and in the special conditions of contract. The final document to be provided to the tenderers should not have blank spaces or give options.
  - b) The instructions to tenderers and the general conditions of contract should remain unchanged. Any necessary amendments to these parts should be made through the appendix to the instructions to the tenderers or the general conditions of contract respectively.
- 1.3 Information contained in the invitation to tender shall conform to the data and information in the tender documents to enable potential tenderers to decide whether or not to participate in the tender and shall indicate any important tender requirements,
- 1.4 The invitation to tender shall be issued as an advertisement in accordance with the regulations or as a letter of invitation addressed to the tenderers who have expressed interest following an advertisement of a prequalification tender.
- 1.5 The cover of the tender document should be modified to include;
  - i. Tender number.
  - ii. Tender name.
  - iii. Name of procuring entity

**SECTION II – INSTRUCTIONS TO TENDERERS**

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## **SECTION II INSTRUCTIONS TO TENDERERS 2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all The Technical University of Kenya Students, 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 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) Details of service
  - iv) Form of Tender
  - v) Price schedule
  - vi) Contract Form
  - vii) Confidential business questionnaire form
  - viii) Tender security form
  - ix) Performance security form
  - x) Principal's or manufacturers authorization form
  - xi) 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**

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

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the request.

## **2.10 Tender**

### **Currencies**

2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to in 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.

## **2.13 Validity of Tenders**

2.13.1 Tenders shall remain valid for one year 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.

## **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 unlamented 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, 26<sup>th</sup> September 2024 at 11.00am.

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 **26<sup>th</sup> September 2024 at 11.00am**.

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, on **26<sup>th</sup> September 2024 at 11.00am** 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.

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. Tenders 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 14 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 highest 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.

**c) 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 meet all the requirement by the University.

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 student Center Tenders.

**d) Notification of award**

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.

The notification of award will signify the formation of the Contract subject to the signing 2.25.2 of the contract between the tenderer and the procuring entity pursuant to clause

Simultaneously

the other Tenderers shall be notified that their tenders have not been successful.

**2.26 Signing of Contract**

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 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

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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 Notes on the appendix to instruction to Tenderers**

1. The appendix to instructions to tenderers is intended to assist the procuring entity in providing specific information in relation to corresponding clauses in the instructions to tenderers
2. included in section II and the appendix has to be prepared for each specific procurement
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the processing of the procurement and the tender evaluation criteria that will apply to the tenderers
3. In preparing the appendix the following aspects should be taken into consideration
  - a. The information that specifies and complements provisions of section III to be incorporated
  - b. Amendments of section II as necessitated by the circumstances of the specific procurement to be also incorporated.
4. Section II should remain intact and only be amended through the appendix.

**Appendix to instructions to tenderers**

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions 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	Particulars of appendix to instructions to tenderers
2.1	As indicated in the invitation to tender
2.10	Particulars of other currencies allowed.
2.11	As indicated in the invitation to tender and the mandatory requirements in the evaluation criteria
2.12	50,000.00
2.24	Particulars of post – qualification if applicable
2.30	To be submitted by the successful bidder
Other’s as necessary	Complete as necessary

## SECTION III GENERAL CONDITIONS OF CONTRACT

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## 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 leasee 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

These General Conditions shall apply to the extent that they are not superseded 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

### 3.5 Patent Right’s

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

**3.6 Performance Security (Three month rent Payment before commencing shop operation)**

Within twenty-eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity with three month rent payment bank slips.

**3.7 Inspections and Tests**

3.7.1 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.

3.7.2 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.

3.7.3 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.

3.7.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

**3.8 Payment**

3.8.1 The method and conditions of payment to be made by the tenderer under this Contract shall be specified

**3.9 Rent**

Rent charged by the lessee 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 parties.

**3.10 Assignment**

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

**3.10 Termination for Default**

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 lessee 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 lessee, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

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 lessee shall be liable to the Procuring entity for any excess costs for such similar services.

### **3.12 Termination of insolvency**

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.

### **3.13 Termination for convenience**

- 3.13.1 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.
- 3.13.2 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.

### **3.14 Resolution of disputes**

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.

If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.15 Governing Language**

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

### **3.16 Force Majeure**

The contractor 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.

### **3.17 Applicable Law.**

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

### **3.18 Notices**

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

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

### **on Special Conditions of Contract**

The clauses in this section are intended to assist the procuring entity in providing contract specific information in relation to corresponding clauses in the general conditions of contract.

The provisions of section IV complement the general conditions of contract included in section III, specifying contractual requirements linked to the special circumstances of the procuring entity and the procurement of services required. In preparing section IV, the following aspects should be taken into consideration.

- a) Information that complement provisions of section III must be incorporated
- b) Amendments and/or supplements to provision of section III, as necessitated by the circumstances of the specific service required must also be incorporated

Where there is a conflict between the provisions of the special conditions of contract and the provisions of the general conditions of contract the provisions of the special conditions of contract herein shall prevail over the provisions of the general conditions of contract.

## SECTION IV SPECIAL CONDITIONS OF CONTRACT

4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2 Special conditions of contract with reference to the general conditions of contract.

General conditions of contract	Special conditions of contract reference
3.8	Specify method and conditions of performance
3.9	None
23.14	Arbitration laws of Kenya
3.17	Kenyan Law
3.18	Indicate addresses of both parties
Other's as necessary	Complete as necessary

## **SECTION V DESCRIPTION OF SERVICES**

### **Notes for preparing technical specifications**

A set of precise and clear description of the services required is a prerequisite for tenderers to respond realistically and competitively to requirements of the procuring entity without qualifying their tenders, the specifications should require that all services to be incorporated be new, and of the most recent improvements – in design and materials unless otherwise provided for in the contract.

Samples of specifications from previous similar procurement are useful in their respect.

Care must be taken in describing the services to ensure that they are not restrictive. In the description of services describing the services recognized national standards should be used as much as possible. Where other particular standards are used, the description should state the services that meet other authoritative standards and which ensure at least a substantially equal quality than other standards mentioned will also be acceptable.

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## SECTION VI-DESCRIPTION OF SERVICES

### PROVISION OF LEASING OF TECHNICAL UNIVERSITY STUDENT CENTRE SHOPS (LEASING AGREEMENT)

The Technical University of Kenya has 17 shops to be leased for one year to the highest evaluated bidder.

#### STAGE 1: MANDATORY REQUIREMENTS

The following mandatory preliminary requirements **must** be met notwithstanding other requirements in the tender document.

NO	MANDATORY REQUIREMENTS	RESPONSIVENESS	
		YES	NO
MR 1	Provide copy of certificate of incorporation/ Registration certificate		
MR2	Provide copy PIN Certificate		
MR 3	Identify eligibility: student must be bona fide TUK students with at least on year to their graduation date. A letter of confirmation from director of school and Academic Registrar to confirm discipline case will be required and copy of student Identity card will be required and copy of student Identity card		
MR4	Evidence of registration for students with disability – registration with NCPD. However students without NCPWD registration but registered with dean of students will be considered.		
MR5	Must submit a dully filled Confidential Business Questionnaire in the format Provided.		
MR6	Students serving as SATUK leaders are not illegible for shop or space allocation		
MR7	Bidders to serialize bid documents from first to last page		

At this stage, the tenderer's submission will be responsive or non-responsive. The non-responsive submissions will be eliminated from the entire evaluation process and will not be considered further.

## TECHNICAL EVALUATION

S/NO	Technical Evaluation Criterion	Marks Allocation	Score
1	Provide a commitment letter accepting to pay Two months' rent deposit and one month rent in advance	23	
2	Only one application will be considered per student	20	
3	Anyone with rent areas from the previous lease period is not eligible(List from Dean of Students office)	17	
4	Students with indiscipline cases is not eligible	20	

***The above mentioned part will carry a maximum weight of 80 Marks***

The Pass MARK WILL BE 70 Marks

Tenders shall proceed to the Financial Evaluation stage only if they qualify in compliance with Parts I and II i.e. Preliminary and Technical stages.

### FINANCIAL REQUIREMENTS

Award will be based on the highest bidder

### STAGE 4: DUE DILIGENCE

The procuring entity prior to award of Tender **MAY** carry out due diligence to verify the accuracy of the information provided and past performance of the Highest evaluated tenderer. Any inconsistencies noted in any of the above requirements and unsatisfactory



## **SECTION VII- STANDARD FORMS**

### **Notes on standard forms**

1. The tenderer shall complete and submit with its tender the form of tender and price schedules pursuant to instructions to tenderers clause 9 and in accordance with the requirements included in the special conditions of contract.
2. The contract form, the price schedules and the schedule of requirements shall be deemed to form part of the contract and should be modified accordingly at the time of contract award to incorporate corrections or modifications agreed by the tenderer and the procuring entity in accordance with the instructions to tenderers or general conditions of contract.

## **SECTION VI - STANDARD FORMS**

1. Form of tender
2. Price schedules
3. Contract form
4. Confidential Questionnaire form
5. Performance security form
6. Declaration form

**FORM OF TENDER**

Date \_\_\_\_\_

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

To.....

.....

.....

.....

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1 Having examined the tender documents including Addenda  
Nos. *[insert numbers]*

which is hereby duly acknowledged, we, the undersigned, offer to provide.

*[description of services]*.....

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 provide the services in accordance with the  
services schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the tender guarantee in a sum 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. 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.

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

*[signature]* \_\_\_\_\_ *[In the capacity of]*

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

**PRICE SCHEDULE OF SERVICES**

Name of Tenderer \_\_\_\_\_ Tender Number \_\_\_\_\_ . Page \_\_\_\_ of \_\_\_\_ .

No.	DESCRIPTION	SHOP No.	DURATION
1	Cyber & photocopying services	4	
2	Stationary shop	6	
3	Electrtical and Eleetronic Shops	9	
4	Stationary Shops	10	
5	General services Shop (Located at Women hostel)	20	

Signature of tenderer \_\_\_\_\_

**Supplier’s Declaration:**

I..... of P.O Box  
..... declare that;

- 1. I will not engage in any corrupt or fraudulent practice**
- 2. Neither our company nor our subcontractors have been debarred from participating in Public Procurement Proceedings**

### Minimum Reserved Price

No.	Nature of Business	Shop no.	Proposed Rent per month(Reserve Price)	Proposed Tenants Rent per Month (over and above the Reserve Price)
1.	Cyber & photocopying services	4	8,000.00	
2.	Stationary shop	6	8,000.00	
3.	Electrtical and Eletronic Shops	9	5,000.00	
4.	Stationary Shops	10	9,000.00	
5	General services Shop (Located at Women hostel	20	5,000.00	

Note: The most responsive bidder, who meets the Mandatory and Technical Evaluation and eligibility criteria, will be considered the tender.

### ELIGIBILITY CRITERIA FOR OUTSOURCING SERVICES

This report outlines the PROPOSED criteria to be used in the allocation of shops numbered 4, 6, 9, 10, and 20 within the Students Centre. The criteria are designed to ensure that the shops are allocated to genuinely needy students, with a focus on fairness, transparency, and support for those who require financial assistance.

Proposed Criteria:

#### **1. No Bidding Process:**

- The allocation of the shops will not involve a bidding process. Instead, the shops will be tendered at a reserved price that is within reasonable limits to ensure affordability for needy students.

#### **2. Bonafide Students:**

- Applicants must be bonafede students of the Technical University of Kenya, meaning they must be officially registered and actively enrolled in an academic program.

#### **3. At Least One Year to Graduation:**

- Students applying for the shops must have at least one year remaining until graduation. This criterion is to ensure that the allocated shop can be run sustainably over a reasonable period.

#### **4. Confirmation Letter from Academic Registration:**

- Applicants must submit a confirmation letter from the Academic Registrar verifying their student status and remaining period until graduation.

**5. Name Reservation/Business Certificate:**

- Applicants are required to provide evidence of a reserved business name or a valid business certificate. This demonstrates that the student is prepared to engage in entrepreneurial activities.

**6. One Application per Student:**

- To ensure fairness and equal opportunity, only one application per student will be considered. This prevents any individual from monopolizing multiple shops.

**7. Letter from the Dean of Students:**

- A letter from the Dean of Students affirming the applicant's level of neediness is required. This letter will serve as a critical assessment of the student's financial situation and overall need for support.

**8. Student living with disability, needy students and student from marginalized areas are encouraged to bid**

- The award will not only be based on the highest Quote but also disability, needy and Marginalized student will be considered.

LEASEE SIGNATURE: .....

DATE: .....

OFFICIAL STAMP:

ADDRESS:

Note:

**a.** In case of discrepancy between unit and total prices, the unit price shall prevail.

**b.** All prices quoted must be inclusive of VAT (where applicable) Transport, Delivery and Handling costs up to TUK STORES

---

**LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

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

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

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

RE: Tender No./Shop 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

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### **7.3 Part III – Financial Evaluation under Paragraph 3.31 of the ITT.**

7.3.1 This will include the following: -

- a) *Confirmation of and considering Price Schedule duly completed and signed.*
- b) *Checking that the Tenderer has quoted prices based on Delivery Duty Paid (DDP) terms/ (VAT inclusive),*
- c) *Conducting a financial comparison.*
- e) *Correction of arithmetical errors,*
- g) *Taking into account the cost of any deviation(s) from the tender requirements,*
- f) *Considering information submitted in the Confidential Business Questionnaire against other information in the bid including: -*
  - i) *Declared maximum value of business*
  - ii) *Shareholding and citizenship for preferences where applicable.*

7.3.2 Confirming the following: -

*6.3.2.1 the Supplier's offered Terms of Payment meets The Technical University of Kenya's requirements.*

#### **TECHNICAL TO FINANCIAL WILL BE IN THE RATIO OF 80:20**

7.3.3 The Successful Tenderer shall be the one with the highest evaluated price.

#### **\*NOTES: -**

1. For purposes of evaluation, the exchange rate to be used for currency conversion shall be the selling exchange rate ruling on the date of tender closing provided by the Central Bank of Kenya. (Visit the Central Bank of Kenya website).
2. Total tender value means the Tenderer's total tender price inclusive of Value Added Tax (V.A.T) for the lease



**SECTION VIII STANDARD FORMS**

**8.1 FORM OF TENDER**

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

**To: The Vice Chancellor  
The Technical University of Kenya  
P. O Box 52428 – 000200  
NAIROBI.**

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 rent Shop No.  
..... (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 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.

3. 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.

4. 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.

### *Part 1 – General*

Business Name

.....

Location of business premises. ( If available)

.....

Plot No..... Street/Road .....

Postal Address .....

Tel No. .... Fax .....

E mail .....

Nature of Business .....

Registration Certificate No.....

Maximum value of business which you can handle at any one time –

Kshs. ....

Name of your bankers .....

Branch .....

A/C NO.....

**Part 2 (a) – Sole Proprietor**

Your name in full ..... Age .....

Nationality ..... Country of origin .....

Citizenship details .....

**Part 2 (b) Partnership**

Given details of partners as follows:

	Name	Nationality	Citizenship Details	Shares
1.	.....	.....	.....	.....
2.	.....	.....	.....	.....
3.	.....	.....	.....	.....
4.	.....	.....	.....	.....

**Part 2 (c) – Registered Company**

Private or Public .....

State the nominal and issued capital of company-

Nominal Kshs. .... Issued Kshs. ....

Given details of all directors as follows

Name	Nationality	Citizenship Details	Shares
------	-------------	---------------------	--------

- 1 .....
- 2 .....
- 3 .....
- 4 .....
- 5 .....

Date ..... Signature of Candidate

.....

---

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

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### 8.3 DECLARATION FORM

Date \_\_\_\_\_

**To:**

The Technical University of Kenya  
**P.O.BOX 502428-00200,**  
**Nairobi-Kenya.**

[TEL:+254\(020\) 338232/338755/219690](tel:+254(020)338232/338755/219690)

Ladies and Gentlemen,

The Tenderer i.e. (full name and complete physical and postal address)  
\_\_\_\_\_ declare the following: \_\_\_\_\_

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/We or any director of the firm or company is not a person within the meaning of paragraph 3.2 of ITT (Eligible Tenderers) of the Instruction to Bidders.
- e) That I/ We are not associated with any other Tenderer participating in this Tender.
- f) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.

Yours sincerely,

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

\_\_\_\_\_  
Signature of duly authorized person signing the Tender

\_\_\_\_\_  
Name and Capacity of duly authorized person signing the Tender

\_\_\_\_\_  
Stamp or Seal of Tenderer

\_\_\_\_\_  
Stamp or Seal of Tenderer

## 8.7 DRAFT LETTER OF NOTIFICATION OF AWARD

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

**Date:**.....

Dear Sirs/ Madams,

**RE: NOTIFICATION OF AWARD OF TENDER NO. ....**

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

.....  
.....

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

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

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

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

Yours faithfully,

**FOR: THE TECHNICAL UNIVERSITY OF KENYA**

**AG. PROCUREMENT DIRECTOR.**

Enclosures

## 8.8 DRAFT LETTER OF NOTIFICATION OF REGRET

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

*Date:*

Dear Sirs/ Madams,

***RE: NOTIFICATION OF REGRET IN RESPECT OF TENDER NO. ....***

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

1. ....
2. ....
3. .... etc...

The successful bidder was \_\_\_\_\_.

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

Yours faithfully,

**FOR: THE TECHNICAL UNIVERSITY OF KENYA**

**AG. PROCUREMENT DIRECTOR.**

## 8.9 CONTRACT AGREEMENT FORM

**THIS AGREEMENT** made this.....day of.....20.... **BETWEENTHE TECHNICAL UNIVERSITY OF KENYA** of Post Office Box Number 52428, -00200, Nairobi in the Republic aforesaid (*hereinafter referred to as the "TUK"*) of the one part,

**AND**

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

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

**AND WHEREAS** TUK has accepted the Tender by the Supplier for lease of space in the sum of .....(*TUK specify the total amount in words which should include any payable taxes, duties, and insurance where applicable e.g. Value Added Tax*) (*hereinafter called "the Contract Price"*).

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -**

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract and the Tender Document.
2. Unless the context or express provision otherwise requires: -
  - a) reference to "this Agreement" includes its recitals, any schedules and documents mentioned hereunder and any reference to this Agreement or to any other document includes a reference to the other document as varied supplemented and or replaced in any manner from time to time.
  - b) any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under.
  - c) words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender.
  - d) words importing the singular number only include the plural number and vice-versa and where there are two or more persons included in the expression the



“Supplier” the covenants, agreements obligations expressed to be made or performed by the Supplier shall be deemed to be made or performed by such persons jointly and severally.

- e) where there are two or more persons included in the expression the “Supplier” any act default or omission by the Supplier shall be deemed to be an act default or omission by any one or more of such persons.
3. The following documents shall constitute the Contract between TUK and the Supplier and each shall be read and construed as an integral part of the Contract: -
- a) this Contract Agreement
  - b) the Special Conditions of Contract as per the Tender Document
  - c) the General Conditions of Contract as per the Tender Document
  - d) the Price Schedules submitted by the Supplier and agreed upon with TUK
  - e) the Technical Specifications as per TUK’s Tender Document
  - f) the Schedule of Requirements
  - g) TUK’s Notification of Award dated.....
  - h) the Tender Form signed by the Supplier
  - i) the Declaration Form signed by the Supplier/ successful Tenderer
  - j) the Warranty
4. In the event of any ambiguity or conflict between the contract documents listed above, the order of precedence shall be the order in which the contract documents are listed in 5 above except where otherwise mutually agreed in writing.
5. The Commencement Date shall be the working day immediately following the fulfillment of all the following: -
- a) Execution of this Contract Agreement by TUK and the Supplier.
  - b) Provide official payment receipt from finance office.
  - c) Where applicable, Opening of the Letter of Credit by TUK.
6. The period of contract validity shall begin from the Commencement date and end on -
- a) One year, after the last date of the agreed delivery schedule, or,
  - b) where a Letter of Credit is adopted as a method of payment, sixty (60) days after the expiry date of the Letter of Credit or the expiry date of the last of any such opened Letter of Credit whichever is later.
- Provided that the expiry period of the Warranty shall be as prescribed and further provided that the Warranty shall survive the expiry of the contract.
7. It shall be the responsibility of the Supplier to ensure that its Performance Security is valid at all times during the period of contract validity and further is in the full amount as contracted.

8. Any amendment, change, addition, deletion or variation howsoever to this Contract shall only be valid and effective where expressed in writing and signed by both parties.
9. No failure or delay to exercise any power, right or remedy by TUK shall operate as a waiver of that right, power or remedy and no single or partial exercise of any other right, power or remedy shall operate as a complete waiver of that other right, power or remedy.
10. Notwithstanding proper completion of delivery or parts thereof, all the provisions of this Contract shall continue in full force and effect to the extent that any of them remain to be implemented or performed unless otherwise expressly agreed upon by both parties.
11. Any notice required to be given in writing to any Party herein shall be deemed to have been sufficiently served, if where delivered personally, one day after such delivery; notices by electronic mail and facsimile shall be deemed to be served one day after the date of such transmission and delivery respectively (*and proof of service shall be by way of confirmation report of such transmission and or delivery*), notices sent by post shall be deemed served seven (7) days after posting by registered post (*and proof of posting shall be proof of service*), notices sent by courier shall be deemed served two (2) days after such receipt by the courier service for Local (Kenyan) Lessee and five (5) days for Foreign Lessee.
12. For the purposes of Notices, the address of TUK shall be **The Vice Chancellor, the Technical University of Kenya, P. O Box 52428 – 00200, NAIROBI**. The address for the Supplier shall be the Supplier's address as stated by it in the Confidential Business Questionnaire provided in the Tender Document.

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

**SIGNED FOR** and on **BEHALF**  
of **TUK**

\_\_\_\_\_  
COMPANY SECRETARY

**SEALED** with the **COMMON SEAL**  
of the **SUPPLIER**  
in the presence of:-

\_\_\_\_\_  
DIRECTOR

\_\_\_\_\_  
*Affix Supplier's Seal here*

---

DIRECTOR'S FULL NAMES

and in the presence of: -

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DIRECTOR/ COMPANY SECRETARY

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DIRECTOR/ COMPANY SECRETARY'S FULL NAMES

\*OR

**SIGNED BY** and on **BEHALF**  
of the **SUPPLIER**

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SIGNATURE OF THE SUPPLIER

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FULL NAMES OF THE SUPPLIER

Performance shall lead to automatic disqualification and second lowest evaluated tenderer shall be considered for the award.