

**CENTRAL BANK OF KENYA**

**BANKI KUU YA KENYA**



**TENDER NO.CBK/03/2010-2011 TENDER  
FOR THE SUPPLY OF NEWSPAPERS AND  
PERIODICALS**

**P.O BOX 60000 - 00200  
NAIROBI**

**(CLOSING DATE: 24<sup>TH</sup>, AUGUST, 2010)**

## **SECTION A- Invitation to Tender**

**Tender Ref No. CBK/ 03/2010-2011**

**Tender name: Tender for the Supply of Newspapers and Periodicals**

The CENTRAL BANK OF KENYA invites sealed tenders from shortlisted candidates to supply Fresh Milk for use at the CBK Head Office.

- 1.** Complete Tender documents may be obtained from the Director, Department of Estates, Supplies & Transport, 5<sup>th</sup> floor, Central Bank of Kenya Head Office, Nairobi from Monday to Friday, between 9.00 a.m. to 5.00 p.m.
- 2.** Tender documents duly completed in sealed envelopes clearly marked **Tender No. CBK/03/2010-2011** should be deposited in the Green Tender Box at the Ground Floor, Central Bank of Kenya Building situated along Haile Selassie Avenue, Nairobi so as to be received on or before **24<sup>th</sup> August, 2010 at 2.30 P.m.** Late bids will not be accepted and will be returned unopened.
- 3.** Tenders will be opened publicly on **24<sup>th</sup> August, 2010 at 2.30 P.m.** in the Conference Room, 5<sup>th</sup> Floor, Central Bank of Kenya, Head Office, Nairobi. Interested tenderers or their representatives may attend the tender opening ceremony.
- 4.** Further information as pertains to this tender may be obtained from the Office of the Director, Department of Estates, Supplies & Transport (Tel: +254 20 2861000/2860000 Fax: +254 20 2863497, +254 20 310604), Fifth Floor, Central Bank of Kenya, Haile Selassie Avenue Nairobi during working hours Monday to Friday. Email [info@centralbank.go.ke](mailto:info@centralbank.go.ke)
- 5.** Canvassing or lobbying for the award of the above tender directly or through a proxy shall lead to automatic disqualification of the tenderer.

DIRECTOR,

DEPARTMENT OF ESTATES, SUPPLIES & TRANSPORT

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## **SECTION B -PRELIMINARIES**

### **1 INTRODUCTION**

Central Bank of Kenya is intending to procure Newspapers and Periodicals for designated offices/Officers at the Head Office. The procurement involves;

1. The supply of daily newspapers (nation, standard, people, business daily and the star) to be supplied Monday to Friday so as to be received by 6.00 a.m. in the office.
2. The supply of the newspapers over the weekend as detailed in the price schedule.
3. The supply of other newspapers (East African, Financial Times and the Financial Post) weekly terms as detailed in the price schedule.
4. The supply of magazines both on weekly and monthly terms as detailed in the price schedule.
5. Delivery Period: The successful tenderer is expected to commence delivery immediately upon expiry of the notification period or as instructed by the procuring entity. The responsibility for delivery shall rest entirely with the Supplier.
6. Insurance And Safety: Attention should be given to safety precautions while delivery is being made to prevent damage or accidents.
7. Fixed Price Contract: The contract is a fixed price contract and MUST be quoted in Kenya Shillings ONLY. No variations will be payable on grounds of exchange rate fluctuations.
8. Validity Period: The tender shall remain valid for 90 days from the date of tender opening.

### **9. NAME AND ADDRESS OF THE EMPLOYER**

For the purpose of response to the tender the address detailed below shall prevail:

Central Bank of Kenya  
P.O. Box 60000  
**NAIROBI**  
**Tel: 2860000 or 2861000**  
**Fax: 340192**  
**Email [info@centralbank.go.ke](mailto:info@centralbank.go.ke)**

## **SECTION C - INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible Tenderers**

- 2.1.1 This Invitation for Tenders is open to tenderers who are eligible.
- 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.
- 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 goods under this Invitation for tenders.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### **2.3 Cost of Tendering**

- 2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.4.1 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

### **2.5 Clarification of Documents**

- 2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by 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 that have received the tender document.

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

## 2.6 **Amendment of Documents**

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

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

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

## 2.7 **Language of Tender**

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

## 2.8 **Documents Comprising of Tender**

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

- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
- (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
- (d) tender security furnished in accordance with paragraph 2.14

## 2.9 **Tender Forms**

2.9.1 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.

## 2.10 **Tender Prices**

- 2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract
- 2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.
- 2.10.3 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 2.22
- 2.10.4 The validity period of the tender shall be 90 days from the date of opening of the tender.

## 2.11 **Tender Currencies**

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

## 2.12 **Tenderers Eligibility and Qualifications**

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

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

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

- (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

## 2.15 **Validity of Tenders**

2.15.1 Tenders shall remain valid for 90 days or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non responsive.

2.15.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

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

2.16.1 The tenderer shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

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

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

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

2.17.1 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.

2.17.2 The inner and outer envelopes shall:

2.17.3

(a) be addressed to the Procuring entity at the address given in the Invitation to Tender:

(b) bear, tender number and name in the Invitation for Tenders and the words, "DO NOT OPEN BEFORE," (**24<sup>th</sup> August, 2010 at 2.30 P.m. )**

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

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

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

2.18.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **(24<sup>th</sup> August, 2010 at 2.30 P.m.)**

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended.

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

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

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

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

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

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

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

## **2.20 Opening of Tenders**

2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **(24<sup>th</sup> August, 2010 at 2.30 P.m.** and in the location specified in the Invitation to Tender.

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

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

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

## **2.21 Clarification of Tenders**

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

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

## **2.22 Preliminary Examination**

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

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and 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 forfeited. If there is a discrepancy between words and figures the amount in words will prevail

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

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

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

## **2.23 Conversion to Single Currency**

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

## **2.24 Evaluation and Comparison of Tenders**

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

2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

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

## **2.25 Contacting the Procuring entity**

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

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

## **2.26 Award of Contract**

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

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

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

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

### **(b) Award Criteria**

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

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

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

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

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

## **2.27 Notification of Award**

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

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

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

## **2.28 Signing of Contract**

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

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

2.28.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

## **2.29 Performance Security**

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

2.29.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

## **2.30 Corrupt or Fraudulent Practices**

2.30.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;

- (i) "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-

competitive levels and to deprive the Procuring entity of the benefits of free and open competition;

2.30.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.

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

## **SECTION D: GENERAL CONDITIONS OF CONTRACT**

### **3.1 Definitions**

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

- (a) "The Contract" means the agreement entered into between 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 Goods" means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.
- (d) "The Procuring entity" means the organization purchasing the Goods under this Contract.
- (e) "The Tenderer" means the individual or firm supplying the Goods under this Contract.

### **3.2 Application**

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

### **3.3 Standards**

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

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

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

3.4.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

### 3.5 **Patent Rights**

3.5.1 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 Goods or any part thereof in the Procuring entity's country

### 3.6 **Inspection and Tests**

3.6.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.6.2 The inspections and tests may be conducted in 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 the Procuring entity.

3.6.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.

3.6.4 The Procuring entity'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 equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.

3.6.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.7 Packing**

3.7.1 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.

3.7.2 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

### **3.8 Delivery and Documents**

3.8.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

### **3.12 Payment**

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

### **3.13 Prices**

3.13.1 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.

### **3.14. Assignment**

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

### **3.15 Subcontracts**

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

### **3.16 Termination for default**

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

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

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

### **3.17 Liquidated Damages**

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

### **3.18 Resolution of Disputes**

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

3.18.2 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, and/or arbitration.

### **3.19 Language and Law**

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

### **3.20 Force Majeure**

3.20.1 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 E - SPECIAL CONDITIONS OF CONTRACT

- 4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
1. **Taxes:** All prices quoted shall be inclusive of all Government taxes. Tenderers are requested to ask for clarifications where and if necessary before submitting their tenders.
  2. **Correspondence:** The Bank will not be bound to accept the lowest or any tender, it will be guided by Public Procurement and Disposal Act, 2005
  3. **Service & Warranty:** There will be no additional charges to Central Bank of Kenya for service and maintenance during the warranty period.
  4. **Canvassing:** Canvassing directly by the tenderer or by proxy shall lead to automatic disqualification of the tender.
  5. **Delivery Period (Time for delivery):** The newspapers must be received by **6.00 a.m.** at the Bank without fail. The tenderer must confirm compliance with this requirement in the **remarks column** at the price schedule Section VIII. Tenders without the confirmation shall be considered non- responsive.
  6. Tenderers must confirm willingness to supply all the categories of the Newspapers as listed in Price Schedule A; preference will be given to the tenderers who quote for the supply all the papers under category. However, the tenderers will still be considered for the Magazines category notwithstanding their response under the newspapers category.
  7. The contract for supply of **Newspapers and Periodicals** are for a period of two years commencing from 1<sup>st</sup> September 2010 to 31<sup>st</sup> August 2012

## SECTION F - EVALUATION CRITERIA

Evaluation of tenders will be conducted based on the tenderers response to the mandatory requirements and the quoted price as indicated in the price schedule.

### (I) MANDATORY REQUIREMENTS

The following mandatory requirements must be met by the tenderer not withstanding other requirements in the tender document:

NO	REQUIREMENTS	RESPONSIVE OR NOT RESPONSIVE
MR 1	Must confirm willingness to deliver the newspapers to the Bank at 6.00 a.m. Confirmation to be made by indicating in writing at the response column in this section.	
MR2	Must give a list of reputable clients where similar supplies have been made in the past.	
MR 3	Must submit copies of the following documents; a) PIN Certificate b) Certificate of Registration/Incorporation	
MR 4	Provide dully filled up Confidential Company Profile in the format provided.	

### SCHEDULE A: Newspapers

	Items Description	Quantity per day	UNIT PRICE (Kshs)	TOTAL PRICE (Kshs)	REMARKS
1	Daily Nation ( <b>Monday to Friday</b> )	144			
2	Weekend Nation (Saturdays, Sunday & Public Holidays)	3			
3	Standard ( <b>Monday to Friday</b> )	144			
4	Weekend Standard (Saturdays, Sunday & Public Holidays)	3			
5	People ( <b>Monday to Friday</b> )	26			
6	Weekend People (Saturdays, Sunday & Public Holidays)	3			
7	Business Daily ( <b>Monday to Friday</b> )	63			
8	Weekend Business (Saturdays, Sunday & Public Holidays)	3			
9	Star ( <b>Monday to Friday</b> )	25			
10	East African ( <b>Weekly</b> )	146			
11	Financial Times ( <b>Weekly</b> )	1			

12	Financial Post <b>(Weekly)</b>	<b>1</b>			
	<b>Total Tender Price</b>				

**SCHEDULE B: Magazines**

	<b>Items Description</b>	<b>Quantity</b>	<b>UNIT PRICE (Kshs)</b>	<b>TOTAL PRICE (Kshs)</b>	<b>REMARKS</b>
1	Harvard Business Review (Monthly)	<b>2</b>			
2	Computer Magazines (Monthly)	<b>1</b>			
3	Readers Digest (Monthly)	<b>2</b>			
4	Construction Review (Monthly)	<b>1</b>			
5	Bits and Pieces (Weekly)	<b>5</b>			
6	Economist (Weekly)	<b>16</b>			
7	Newsweek (Weekly)	<b>16</b>			
8	Times (Weekly)	<b>16</b>			
	<b>Total Tender Price</b>				

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

*Note:* In case of discrepancy between unit price and total, the unit price shall prevail.

## **SECTION J - STANDARD FORMS**

### **Notes on the sample Forms**

1. Form of Tender - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
  
2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.
  
3. Contract Form - The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.

(I) **FORM OF TENDER**

Date \_\_\_\_\_

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

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

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

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply deliver, install and commission ( ..... *(insert equipment description)* in conformity with the said tender documents for the sum of ..... *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract , in the form prescribed by ..... *(Procuring entity)*.
4. We agree to abide by this Tender for a period of ..... *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

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

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[in the capacity of]

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

**(II) PROFILE OF THE COMPANY**

***CONFIDENTIAL BUSINESS QUESTIONNAIRE***

(You are advised that it is a serious commission to give false information under this section as it may render your bid being automatically disqualified).

**PART I: GENERAL INFORMATION**

- a) The questionnaire must be fully and comprehensively completed in all respects.
- b) Information given by the applicant shall be treated in strict confidence.
- c) Any information given and later found to be incorrect shall lead to disqualification of the tenderer.
- d) Deliberately incorrect information leads to disqualification of the application.
- e) Canvassing will lead to automatic disqualification of the applicant.

**PART II: BIDDER DETAIL**

The purpose of this section is to provide the required background information of the bidder organization.

1)	Provide documentary evidence of the registered name and number of your company and date of Registration.		
	<b>Company Name</b>	<b>Company Registration Number</b>	<b>Registration Date</b>

2)	Give full details of your Bankers.
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**PART III: CONTACT PERSON(S) DETAIL**

3)	Provide the contact person (s) name(s), addresses, phone numbers etc.	
	<b>Contact Person Name</b>	
	<b>Landline Telephone Number</b>	
	<b>Cellular Telephone Number</b>	
	<b>Facsimile Telephone Number</b>	
	<b>E-mail</b>	
	<b>Postal Address</b>	
	<b>Physical Address</b>	

4)	Please provide evidence of the registered street and postal addresses of the bidding organization	
	<b>Registered Street Address</b>	<b>Registered Postal Address of your organisation</b>

5)	Please provide evidence of current registration with relevant regulatory body within your industry, if any, including ISO reference or proof of the award.
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#### **PART IV: BIDDER ORGANIZATION PROFILE**

6)	Who owns your organization? Provide details of the holding company and the main shareholders indicating percentage of shares held.
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7)	What is your organisation's primary business activity? Provide a list with the estimated percentage of revenue earned from each of the primary business activities.
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8)	Provide the location of the service center(s) that will support the Central Bank of Kenya.				
	<table border="1" style="width: 100%;"><thead><tr><th style="width: 70%;"><b>Sales Office/Service Centre</b></th><th style="width: 30%;"><b>Location</b></th></tr></thead><tbody><tr><td> </td><td> </td></tr></tbody></table>	<b>Sales Office/Service Centre</b>	<b>Location</b>		
<b>Sales Office/Service Centre</b>	<b>Location</b>				

#### **PART V: BIDDING ORGANISATION'S CLIENT BASE**

The purpose of this section is to get a view of the number and profile of customers that the bidding organization has.

*The Bank intends to contact these customers when checking references. You shall be expected to state any objections. If not stated, you shall be deemed to have authorized the Bank to contact these customers.*

9)	Please provide reference letters from your three (3) major clients where you have successfully carried out similar or comparable assignment.
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**PART VI: BIDDER'S STANDARD CONTRACTS**

10)	Describe your approach to contracting and negotiation specifically relating to the availability and use of standard contracts and whether you consider any of the standard contracts or specific clause to be not negotiable.
11)	Provide details of the preferred payment plan if not contained in the standard contract supplied.

**PART VII: VERIFICATION OF BUSINESS SUSTAINABILITY**

12)	Provide audited financial statements for the last three financial years. The supply of these financial statements will be mandatory for your tender to be considered responsive.
13)	State whether you are currently involved in any litigation or arbitration (or any other legal process which may result in legal or financial liability).  If yes, what is the financial exposure as a result of the litigation, arbitration or other legal process and on what basis has this financial exposure been calculated?  If yes, what other exposure could result from the litigation, arbitration or other legal process and will this financial or other exposure materially prejudice the bidder's financial position or its ability to successfully and timorously implement any contract which may be awarded to it pursuant to this Tender?

14)	Have you ever:		
	<b>Question</b>	<b>Response</b>	
		<b>Yes</b>	<b>No</b>
	Forfeited any payment on a contract?		
	Been declared in default of a contract?		
	Negotiated the premature termination of a contract?		
Had an uncompleted contract assigned to another solution provider?			

**PART VII: TECHNICAL SUPPORT & CAPACITY BUILDING**

15)	State your policy on technological (maintenance) and operational support including capacity building (training) you offer to your clients.
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**PART XIII: CERTIFICATION**

	<p>I/We do hereby certify that the above information is correct in all respects.</p> <p><b><i>FULL NAME:</i></b> .....</p> <p><b><i>DESIGNATION/POSITION:</i></b> .....</p> <p><b><i>SIGNATURE:</i></b> .....</p> <p><b><i>DATE:</i></b> .....</p> <p><b><i>COMPANY SEAL AND/OR STAMP:</i></b> .....</p>
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**(III) CONTRACT FORM**

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

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are  
respectively assigned to them in the Conditions of Contract referred to:
2. The following documents shall be deemed to form and be read and construed as  
part of this Agreement viz:
  - (a) the Tender Form and the Price Schedule submitted by the tenderer
  - (b) the Schedule of Requirements
  - (c) the Technical Specifications
  - (d) the General Conditions of Contract
  - (e) the Special Conditions of contract; and
  - (f) the Procuring entity's Notification of Award
3. In consideration of the payments to be made by the Procuring entity to the  
tenderer as hereinafter mentioned, the tender hereby covenants with the Procuring  
entity to provide the goods and to remedy defects therein in conformity in all  
respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the  
provisions of the goods and the remedying of defects therein, the Contract Price or  
such other sum as may become payable under the provisions of the Contract at the  
times and in the manner prescribed by the contract.

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

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

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