



**GEOHERMAL DEVELOPMENT  
COMPANY LIMITED**

**TENDER FOR SUPPLY & DELIVERY OF  
MOBILE PLANT WORKSHOP  
CONSTRUCTION MATERIALS.**

**TENDER NO: GDC/DEM/OT/034/2020-2021**

**CLOSING DATE AND TIME: 06<sup>th</sup> JANUARY  
2021 at 2.00Pm**

**Geothermal Development Company  
Ltd  
P.O. Box 100746-00101  
NAIROBI  
Website: [www.gdc.co.ke](http://www.gdc.co.ke)**

*Tender for Supply & Delivery of Mobile Plant Workshop Construction  
Materials.*

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## SECTION I INVITATION TO TENDER

**TENDER REF NO: GDC/DEM/OT/034/2020-2021**

**TENDER NAME: Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.**

1.1 The Geothermal Development Company Ltd invites sealed bids from eligible tenderers for Supply & Delivery of Mobile Plant Workshop Construction Materials.

1.2 Interested eligible candidates may obtain further information and inspect the tender document from the office of Manager, Supply Chain at Kawi House Office, located at South C Bellevue, Off Mombasa Road, Red Cross Road between 9.00am and 4.00pm during weekdays. The document can also be viewed and downloaded from the website [www.gdc.co.ke](http://www.gdc.co.ke) or PPIP Portal: [www.tenders.go.ke](http://www.tenders.go.ke) **free of charge or at no cost.** Bidders who download the tender document from the website **MUST** forward their particulars immediately for records to the email addresses provided at the appendix to instruction to bidders. Tenderers to keep checking GDC & PPIP website for any further tender clarifications and addenda.

1.3 Tenders **MUST** be accompanied by an original **Tender Security in the amount of Kshs 200,000.00** in the format provided in the tender document.

1.4 The completed tenders in plain sealed envelopes clearly marked with **Tender No. and Tender reference name**; shall be addressed to:

**THE MANAGING DIRECTOR,  
GEOTHERMAL DEVELOPMENT COMPANY LTD (GDC)  
P.O. BOX 100746 – 00101  
NAIROBI, KENYA**

and deposited in the tender box at GDC Kawi House Office Ground Floor, located at South C Bellevue ,Off Mombasa Road, Red Cross Road, not later than **06<sup>th</sup> January 2021 at 2.00pm (1400Hrs).**

*Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.*

1.5 Prices quoted should be inclusive of all taxes, delivery and transport charges to Menengai Geothermal Project in Nakuru County.

1.6 Tenders will be opened immediately thereafter in the presence of the tenderers' representatives who choose to attend at GDC Kawi House Board Room.

**Manager, Supply chain**

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

### **2.1 Eligible Tenderers**

2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.

2.1.2 The GDC'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 GDC 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.

### **2.2 Eligible Goods**

2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.

2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components

2.2.3 The origin of goods is distinct from the nationality of the tenderer.

## 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 GDC, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.3.2 The price to be charged for the tender document shall not exceed Kshs.1,000/= or free of charge for bidders that download the tender document from either GDC website or IFMIS tenders portal
- 2.3.3 All firms found capable of performing the contract satisfactorily in accordance with the set prequalification criteria shall be prequalified.

## 2.4 The Tender Document

- 2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers
- (i) Invitation to Tender
  - (ii) Instructions to tenderers
  - (iii) General Conditions of Contract
  - (iv) Special Conditions of Contract
  - (v) Schedule of requirements
  - (vi) Technical Specifications
  - (vii) Tender Form and Price Schedules
  - (viii) Tender Security Form
  - (ix) Contract Form
  - (x) Performance Security Form
  - (xi) Confidential Business Questionnaire
  - (xii) Declaration of Undertaking
  - (xiii) Power of Attorney
- 2.4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially

responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## **2.5 Clarification of Documents**

- 2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the GDC in writing or by post at the entity's address indicated in the Invitation to Tender. The GDC 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 GDC. 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 GDC 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 GDC, 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 GDC, 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 GDC, 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 to Menengai in Nakuru County.



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 120 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 GDC'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 GDC'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.

## **2.13 Goods Eligibility and Conformity to Tender Documents**

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

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

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

- (a) a detailed description of the essential technical and performance characteristic of the goods;
- (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the GDC; and
- (c) a clause-by-clause commentary on the GDC's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The

tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

## **2.14 Tender Security**

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

2.14.2 The tender security required for this tender is Kshs. 200,000 in the form of Bank/Insurance guarantee issued in Kenya.

2.14.3 The tender security is required to protect the GDC against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

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

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the GDC as non responsive, pursuant to paragraph 2.22

2.14.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the GDC.

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

***Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.***

- (a) if a tenderer withdraws its tender during the period of tender validity specified by the GDC on the Tender Form; or
- (b) in the case of a successful tenderer, if the tenderer fails:
  - (i) to sign the contract in accordance with paragraph 2.27 or
  - (ii) to furnish performance security in accordance with paragraph 2.28

## **2.15 Validity of Tenders**

2.15.1 Tenders shall remain valid for **120 days** or as specified in the Invitation to tender after the date of tender opening prescribed by the GDC, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the GDC as non responsive.

2.15.2 In exceptional circumstances, the GDC 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:

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

**The Managing Director  
Geothermal Development Co. Ltd  
P. O Box 100746-00101.  
NAIROBI, KENYA**

(b) bear, tender number and name in the Invitation for Tenders and the words, “**DO NOT OPEN BEFORE, 2:00pm, 06<sup>th</sup> January, 2021**”

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

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the GDC 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 GDC at the address specified under paragraph 2.17.2 no later than **06<sup>th</sup> January 2021 at 2:00pm.**

2.18.2 The GDC 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 GDC 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 GDC 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 GDC 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 GDC 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 GDC will open all tenders in the presence of tenderers' representatives who choose to attend, on **06<sup>th</sup> January, 2021 at 2:00 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 GDC, at its discretion, may consider appropriate, will be announced at the opening.

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

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

2.22.3 The GDC 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 GDC 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 GDC'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 GDC 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 GDC 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 GDC 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 Preference**

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

## **2.26 Contacting the GDC**

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

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

## **2.27 Award of Contract**

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

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

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

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

(b) **Award Criteria**

2.27.4 The GDC 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) **GDC's Right to Vary quantities**

2.27.5 The GDC 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) **GDC's Right to Accept or Reject Any or All Tenders**

2.27.6 The GDC 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 GDC's action

**2.28 Notification of Award**

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

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

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

## **2.29 Signing of Contract**

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

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

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

## **2.30 Performance Security**

2.30.1 Within Thirty (30) days of the receipt of notification of award from the GDC, 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 GDC.

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

## **2.31 Corrupt or Fraudulent Practices**

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

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

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

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

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

## Appendix to Instructions to Tenderers

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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	The tender is eligible to all tenderers with technical & financial capability to <b>Supply &amp; Deliver Mobile Plant Workshop Construction Materials to Menengai Geothermal Project.</b>
2.3.2	<p>A complete set of the tender document may be obtained by interested firms upon payment of a non-refundable fee of <b>Kshs.1000</b> each payable to our accounts office in cash or by banker's cheque.</p> <p>The document can also be viewed and downloaded from the website <a href="http://www.gdc.co.ke">www.gdc.co.ke</a> or PPIP Portal: <a href="http://www.tenders.go.ke">www.tenders.go.ke</a> <b>free of charge or at no cost.</b> Bidders who download the tender document from the website <b>MUST</b> forward their particulars immediately for records to <a href="mailto:procurement@gdc.co.ke">procurement@gdc.co.ke</a> &amp; Cc: <a href="mailto:dkyaka@gdc.co.ke">dkyaka@gdc.co.ke</a>; <a href="mailto:pkapto@gdc.co.ke">pkapto@gdc.co.ke</a> . Tenderers to keep checking GDC &amp; PPIP website for any further tender clarifications and addenda to</p>
2.5.1	<p>A prospective tenderer requiring any clarification of the tender document may notify GDC in writing (email in PDF format or by facsimile) at the following address:</p> <p>One copy to: -            Manager, Supply Chain            Geothermal Development Company Limited,            Kawi House, South C Bellevue ,Off Mombasa Road, Red Cross Road            P.O. Box 100746 – 00101</p>

	<p>NAIROBI, KENYA  E-mail: <a href="mailto:dkyaka@gdc.co.ke">dkyaka@gdc.co.ke</a>  Copy to: <a href="mailto:Procurement@gdc.co.ke">Procurement@gdc.co.ke</a> &amp; Cc:  <a href="mailto:dkyaka@gdc.co.ke">dkyaka@gdc.co.ke</a> ; <a href="mailto:pkapto@gdc.co.ke">pkapto@gdc.co.ke</a></p> <p>And one copy to: -  Manager, General Manager, Drilling &amp; Infrastructure  Geothermal Development Company Limited,  Kawi House, South C Bellevue ,Off Mombasa Road, Red  Cross Road  P.O. Box 100746 – 00101  NAIROBI, KENYA  E-mail: <a href="mailto:gkinyanjui@gdc.co.ke">gkinyanjui@gdc.co.ke</a> &amp; Cc : <a href="mailto:rngosi@gdc.co.ke">rngosi@gdc.co.ke</a></p> <p>NB: Any request for clarification must be in the firm’s letterhead, signed and must be in reference to the specific parts of the tender document properly numbered.</p>
2.5.4	GDC will respond in writing (e-mail in PDF format) to any request for clarification received at least Seven (7) days prior to the deadline for the submission of tenders.
2.10.2	Prices should include all taxes & delivery charges to <b>GDC Menengai Geothermal Field in Nakuru County.</b>
2.11.1	Prices quoted shall be in Kenya Shillings or any other convertible currency and shall remain fixed for twelve (12) months from the date the contract is signed.
2.14.1	The tenderer shall furnish, as part of its tender, a tender security in the amount of <b>Kshs. 200,000.00 issued by a reputable Bank/Insurance guarantee operating in Kenya and valid for 150 days from the date of tender opening.</b>
2.15.1	The tender validity period is <b>120 days</b> from the date of tender opening. A tender valid for a shorter period shall be considered as non-responsive and shall be rejected.
2.16.1	Tenderers should submit <b>One (1) Original and One (1) copy</b> of the tender. All pages (Original and Copy) of the tender documents <b><u>MUST be serialized &amp; initialized</u></b> by the tenderer including the attachments to the bid document & well bound.

2.18.1	The tender Closing date is on; <b>06<sup>th</sup> January, 2021 at 2.00pm (1400hrs)</b>																																						
2.23.1	Where other currencies are used, GDC 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	<p><b><u>Tender Evaluation Criteria</u></b></p> <p>i. Mandatory Evaluation Criteria- At the preliminary evaluation stage, the following mandatory requirements that determines a bidder’s responsiveness will be assessed;</p> <table border="1" data-bbox="500 579 1468 1715"> <thead> <tr> <th data-bbox="500 579 610 726">No.</th> <th data-bbox="610 579 1289 726">Requirement</th> <th colspan="2" data-bbox="1289 579 1468 726">Bidders Response (Yes/No)</th> </tr> </thead> <tbody> <tr> <td data-bbox="500 726 610 814">1.</td> <td data-bbox="610 726 1289 814">Dully filled, Signed &amp; Stamped Tender Form</td> <td data-bbox="1289 726 1373 814"></td> <td data-bbox="1373 726 1468 814"></td> </tr> <tr> <td data-bbox="500 814 610 903">2.</td> <td data-bbox="610 814 1289 903">Dully filled, Signed &amp; Stamped Price Schedule.</td> <td data-bbox="1289 814 1373 903"></td> <td data-bbox="1373 814 1468 903"></td> </tr> <tr> <td data-bbox="500 903 610 991">3.</td> <td data-bbox="610 903 1289 991">Certified copy of Certificate of Incorporation/ Registration by an advocate.</td> <td data-bbox="1289 903 1373 991"></td> <td data-bbox="1373 903 1468 991"></td> </tr> <tr> <td data-bbox="500 991 610 1205">4.</td> <td data-bbox="610 991 1289 1205">Certified copy of Tax compliance certificate by an advocate valid at the time of opening. The validity of the Tax certificate shall be confirmed from KRA Tax Checker.</td> <td data-bbox="1289 991 1373 1205"></td> <td data-bbox="1373 991 1468 1205"></td> </tr> <tr> <td data-bbox="500 1205 610 1335">5.</td> <td data-bbox="610 1205 1289 1335">Certified copy of Certificate of Confirmation of Directors and Shareholding (CR12) by an advocate.</td> <td data-bbox="1289 1205 1373 1335"></td> <td data-bbox="1373 1205 1468 1335"></td> </tr> <tr> <td data-bbox="500 1335 610 1423">6.</td> <td data-bbox="610 1335 1289 1423">Attach a copy of valid Single business permit/license certified by an advocate.</td> <td data-bbox="1289 1335 1373 1423"></td> <td data-bbox="1373 1335 1468 1423"></td> </tr> <tr> <td data-bbox="500 1423 610 1512">7.</td> <td data-bbox="610 1423 1289 1512">Provide a Power of Attorney witnessed by an advocate.</td> <td data-bbox="1289 1423 1373 1512"></td> <td data-bbox="1373 1423 1468 1512"></td> </tr> <tr> <td data-bbox="500 1512 610 1715">8.</td> <td data-bbox="610 1512 1289 1715">Historical Contract Non-Performance - Provide written declaration witnessed by an advocate that your firm has not been warned against Non-performance of a contract in the last five (5) years.</td> <td data-bbox="1289 1512 1373 1715"></td> <td data-bbox="1373 1512 1468 1715"></td> </tr> </tbody> </table>			No.	Requirement	Bidders Response (Yes/No)		1.	Dully filled, Signed & Stamped Tender Form			2.	Dully filled, Signed & Stamped Price Schedule.			3.	Certified copy of Certificate of Incorporation/ Registration by an advocate.			4.	Certified copy of Tax compliance certificate by an advocate valid at the time of opening. The validity of the Tax certificate shall be confirmed from KRA Tax Checker.			5.	Certified copy of Certificate of Confirmation of Directors and Shareholding (CR12) by an advocate.			6.	Attach a copy of valid Single business permit/license certified by an advocate.			7.	Provide a Power of Attorney witnessed by an advocate.			8.	Historical Contract Non-Performance - Provide written declaration witnessed by an advocate that your firm has not been warned against Non-performance of a contract in the last five (5) years.		
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	9.	Provide Audited Accounts for the last three (3) years i.e. 2017/2018/2019 signed and stamped by the Auditor and Certified by an advocate with an annual turnover of at least Kshs. 15million for the last three (3) years. Tenderers to also provide physical address and contact details (emails & telephone number) of the Auditor in their company letterhead duly signed and stamped.			
	10.	Minimum average annual turnover of Twice the Value of Bid Price calculated as total certified payments received for contracts in progress or completed, within the last Three (3) years.			
	11.	Dully Filled signed & stamped Confidential Business Questionnaire in the format provided.			
	12.	Dully Filled signed & stamped Declaration of Undertaking in the format provided.			
	13.	Original bid security of Kshs. 200,000 issued by a reputable Bank or Insurance company operating in Kenya & valid for 150 days from the date of tender opening.			
<p><b>NB:</b> Tenderers who will not meet the above requirements will be declared non-responsive and their bids will not be evaluated further. Please note that the authenticity of the above documents provided may be verified with the issuing/relevant authority and any forgery or false presentation in any one of the above shall lead to automatic disqualification and render the tenderers bid non-responsive. Note that you may be required to produce original Certificates for ease of verification.</p> <p>GDC reserves the right to carryout independent investigations to verify the accuracy of information provided without notifying the</p>					



tenderer.

b) Technical Evaluation Criteria- This will be based on compliance to the following criteria by tenderers.

<b>No.</b>	<b>Requirement</b>	<b>Bidders Response (Yes/No)</b>
1.	Detailed brochures/ catalogues	Bidders are required to comply with Section V – Technical Specification Requirements. Tenderers to attach detailed brochures/catalogues in English language for each schedule quoted depicting compliance to specifications. Translated literature in English language shall be provided for literatures in different languages.
2.	List of Clients	Provide reference list of clients whom similar goods have been supplied and delivered for. The list to indicate the name of the firm supplied, contract value, the Firm contact person including contact address.
3.	Similar Experience	Experience as Supplier by providing copies of at least three (3) contracts or Local Purchase Orders (LPO's) within the last Ten (10) years that have been successfully and substantially completed and that are similar to the proposed Goods and Related Services. The similarity shall be based on the physical size, complexity, methods/technology.

	4.	GDC Delivery Period	GDC delivery period for Supply and delivery of Mobile Plant Workshop Construction Materials is One (1) month from date of contract signing to Menengai Geothermal Project in Nakuru County – Bidders to specify their delivery period in the price schedule in Section VI of the tender document.
	5.	Written Confirmation to supply as quoted.	Tenderers to submit written undertaking that should the candidate be awarded the tender for the items quoted, they shall without exception, throughout the contract duration supply the mobile plant workshop construction materials as specified in this tender
	6.	Bidders Response Colum	Tenderers to fill the bidders response column in Schedule of requirement in Section V to depict compliance or non compliance to specifications.
	<p>c)Financial Evaluation Criteria- This will be based on compliance to the following criteria by tenderers.</p> <ol style="list-style-type: none"> <li>i. No correction of arithmetic errors -_The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.</li> <li>ii. Compliance to GDC payments terms as per section IV of the tender document. Provide a written declaration in company’s letterhead duly signed and stamped conforming to GDC payment terms.</li> <li>iii. The lowest evaluated tender per complete schedule inclusive of all applicable taxes &amp; delivery cost to Menengai Geothermal Project in Nakuru County shall be</li> </ol>		

	recommended for award. Tenderers can quote for any schedule of choice. Incomplete schedule shall led to disqualification.
2.27.1	The lowest evaluated tender per complete schedule inclusive of all applicable taxes & delivery cost to Menengai Geothermal Project in Nakuru County shall be recommended for award. Tenderers can quote for any schedule of choice. Incomplete schedule shall led to disqualification.
2.28.1	The unsuccessful tenderers will be notified on the outcome of the tender at the same time the successful tenderer is notified.
2.30.1	The performance security shall be 10% of the total contract price in the form of a bank guarantee issued by a Bank operating in Kenya acceptable to GDC. The performance security shall be valid for the entire contract period and additional thirty (30) more days after completion of supply & delivery of items to Menengai.

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

### **3.1 Definitions**

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

- (a) “The Contract” means the agreement entered into between the GDC 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 GDC under the Contract.
- (d) “The GDC” 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 GDC for the procurement installation and commissioning of equipment

### **3.3 Country of Origin**

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

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

### **3.4 Standards**

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

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

3.5.1 The tenderer shall not, without the GDC'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 GDC in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

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

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

### **3.6 Patent Rights**

3.6.1 The tenderer shall indemnify the GDC 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 GDC's country

### **3.7 Performance Security**

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the GDC the performance security in the amount specified in Special Conditions of Contract.

3.7.2 The proceeds of the performance security shall be payable to the GDC as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the GDC and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the GDC, in the form provided in the tender documents.

3.7.4 The performance security will be discharged by the GDC and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

### **3.8 Inspection and Tests**

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

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of Installation, 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 GDC.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the GDC 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 GDC.

3.8.4 The GDC'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 GDC or its representative prior to the equipment Installation.

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

### **3.9 Packing**

3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

### **3.10 Installation and Documents**

3.10.1 Installation of the Goods shall be made by the tenderer in accordance with the terms specified by GDC in its Schedule of Requirements and the Special Conditions of Contract

### **3.11 Insurance**

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and Installation in the manner specified in 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 GDC 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.

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

3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

3.13.4 Price variation request shall be processed by the GDC within 30 days of receiving the request.

### **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 GDC's prior written consent

### **3.15 Subcontracts**

3.15.1 The tenderer shall notify the GDC 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 GDC 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 GDC

(b) if the tenderer fails to perform any other obligation(s) under the Contract



- (c) if the tenderer, in the judgment of the GDC has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event the GDC 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 GDC 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 GDC 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 GDC 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 or international forum, and/or international 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 IV - SPECIAL CONDITIONS OF CONTRACT

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

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.1 Definitions	The Purchaser is The Managing Director, Geothermal Development Company Ltd (GDC), KAWI HOUSE, SOUTH C Tel: 0719715777/8, 0733602260, P.O Box 100746 – 00101, NAIROBI, KENYA, and includes its legal representatives, successors or assigns.
3.2 Applications	The Special Conditions of Contract <i>hereinafter abbreviated as SCC</i> shall form part of the Conditions of Contract. They are made in accordance with the law and the GDC’s guidelines, practices, procedures and working circumstances. They shall amend, add to and vary the General Conditions of Contract. Whenever there is a conflict between the GCC and SCC, the provisions of the SCC shall prevail over those in the GCC
3.4 Standards	The Workshop Construction Materials supplied under this tender shall be of high standard and original. The items quoted for shall be of defects free. Items that do not meet and comply with GDC specifications shall be rejected.
3.7.1 Performance Security	The Performance Security shall be in the amount of <b>10% of the Contract Price in the form of a bank guarantee issued by a Bank operating in Kenya and acceptable to GDC.</b> The performance Security shall be valid for a minimum of <b>30</b> days after completion of supply & delivery of Mobile Plant Workshop Construction Materials to Menengai Geothermal Field.

3.10.1 Delivery Point	The Point of delivery is Menengai Geothermal Project in Nakuru County.
3.12.1 Payment Terms & Conditions	<p>1) Geothermal Development Company's payment terms are within sixty (60) days upon receipt of certified invoices confirming that the invoiced goods/items have been supplied and delivered and is in accordance with the contract by the supplier.</p> <p>2) Advance Payment is not applicable.</p> <p>3) Payment shall be made through Geothermal Development Company's cheque or telegraphic transfer of the contract.</p> <p>4) No interest on delayed payments</p>
3.13 Prices	<p>Prices charged by the tenderer for the tender under the Contract shall remain fixed from the date the contract is signed. No variations will be payable on grounds of exchange rate fluctuations.</p> <p><b><u>No correction of errors.</u></b></p> <p>The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.</p>
3.16 Termination	<p><b>Termination for Default</b></p> <p>GDC may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Service Provider, terminate this Contract in whole or in part:</p> <ol style="list-style-type: none"> <li>a) If the Service Provider fails to deliver the Goods and Services within the period(s) specified in the Contract, or within any extension thereof granted by the GDC;</li> <li>b) If the Goods and Services delivered by the Service Provider do not conform to the Standards specified in the Contract;</li> <li>c) If the Service Provider fails to perform any other obligation(s) under the Contract;</li> <li>d) If the Service Provider, in the judgment of</li> </ol>

	<p>the GDC has engaged in corrupt or fraudulent practices in competing for or in executing the Contract;</p> <p>e) If the Service Provider becomes insolvent or bankrupt; GDC may at any time terminate this Agreement by giving written notice to the Service Provider if the Service Provider becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Service Provider, provided that such termination will not produce or affect any right of action or remedy which has accrued or will accrue thereafter to GDC;</p> <p>In the event that the GDC terminates the Contract in whole or in part, it may procure, upon such terms and in such manner, as it deems appropriate, Goods and Services similar to those undelivered, and the Service Provider shall be liable to the GDC for any excess costs incurred.</p> <p><b>3.21 Termination by Notice</b></p> <p>Either party, at its sole discretion, may at any time by written notice terminate the Contract by giving no less than Thirty (30) days' notice in writing.</p> <p><b>3.22 Termination for Convenience</b></p> <p>The GDC by written notice sent to the Tenderer may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the GDC's convenience, the extent to which performance of the Tenderer of the contract is terminated and the date on which such termination becomes effective.</p> <p>For the remaining part of the contract after</p>
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	<p>termination the GDC may elect to cancel the supply and pay to the Tenderer the amount for partially delivered goods.</p> <p><b>21.4 Termination by Mutual Consent</b> By mutual written agreement, the Purchaser and the Tenderer may agree to terminate the contract. The agreement shall provide that the termination is by mutual agreement, the extent to which the contract is terminated and the effects of such termination on each party's obligations.</p> <p><b>21.5 Termination by Insolvency</b> If the Tenderer becomes insolvent or bankrupt; the Purchaser may at any time terminate this Agreement by giving written notice to the Tenderer. In this event, termination will be without compensation to the Service provider, provided that such termination will not produce or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser. On termination of this Agreement, howsoever terminated, the Contractor shall be permitted to remove all its equipment which may have been placed by the Contractor upon the employer's premises.</p>
<p><b>3.23 Liquidated Damages</b></p>	<p>If the contractor fails to provide any or all of the items within the period(s) specified in the contract, GDC shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the price of the undelivered items, per day until actual Installation of complete items, up to a maximum deduction of 10% of the undelivered items. After this GDC may consider termination of the contract.</p>
<p><b>3.14 Resolution of Disputes</b></p>	<p>If any dispute or difference of any kind arises between the Parties in connection with this Agreement or the breach, termination or validity hereof (a "Dispute") it</p>

	<p>shall be referred to arbitration under the Arbitration Act, 1995 and it is hereby agreed that;</p> <p>(a) The seat of the arbitration shall be Nairobi, Kenya;</p> <p>(b) There shall be a panel of three (3) arbitrators. Each Party shall appoint one arbitrator and the third who shall be the chairman who shall be appointed by the Institute of Chartered Arbitrators Kenya Chapter. Provided that any person who has existing or prior relationship with either Party shall not be eligible for appointment as an arbitrator except with the consent of both Parties.</p> <p>(c)The language of the arbitration shall be English;</p> <p>(d)The award rendered shall apportion the costs of the arbitration;</p> <p>(e)The award shall be in writing and shall set forth in reasonable detail the facts of the Dispute and the reasons for the tribunal’s decision</p>
<b>Law’s of Kenya</b>	The contract shall be interpreted in accordance with the laws of Kenya.
<b>Notices:</b>	<p>Each party's address for the items of notice shall be the below mentioned address or such other address as it specifies by notice to the other;</p> <p>For the Procuring Entity:-</p> <p style="text-align: center;">The Managing Director &amp; CEO, Geothermal Development Company Ltd (GDC) Kawi House, South C Bellevue Off Mombasa Road, Tel: 0719037000, 0719036000 P.O. Box 100746 – 00101 Nairobi, Kenya</p> <p>Any notice given under the Agreement shall be in writing and may be served:</p>

	<ul style="list-style-type: none"><li>i. In person;</li><li>ii. by registered or recorded Installation mail;</li><li>iii. by e-mail, telex or facsimile transmission (the latter confirmed by telex or post); or</li><li>iv. by any other means which any party specifies by notice to the others.</li></ul> <p>Notice shall be deemed to have been served:</p> <ul style="list-style-type: none"><li>i. if it was served in person, at the time of service;</li><li>ii. if it was served by post, 72 hours after it was posted; and</li><li>iii. If it was served by e-mail, telex or facsimile transmission, at the time of transmission.</li></ul>
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**SECTION V - TECHNICAL SPECIFICATIONS FOR TENDER FOR SUPPLY & DELIVERY OF MOBILE PLANT WORKSHOP CONTRCUTION MATERIALS.**

**Schedule One (1) – Workshop Shed Materials (Hardware).**

<b>No.</b>	<b>Item Description</b>	<b>UoM</b>	<b>Qty</b>	<b>Bidder's Response Column (Y/N)</b>
1.	Tubes (6m long each) 3" x 2" x 3mm	PC	90	
2.	Tubes (6m long each) 2" x 2" x 3mm	PC	30	
3.	Z-Bars (6m long each) 4" x 2"x 3mm	PC	125	
4.	J-Bolts complete with nuts and rubbers 4"	KG	200	
5.	Reinforcement bars D12	PC	25	
6.	Angle lines (6m long each) 3" x 3" x 8mm	PC	7	
7.	Heavy gauge black sheet 8ft x 4ft x 4mm	PC	90	
8.	Hoop Iron 48 Kg each	Roll	2	
9.	Mild Steel Welding Rods (Fontarc / Weldrod) 3.25mm	PAC	2	
10.	Cutting Discs 9"	PAC	50	
11.	Grinding Discs 7"	PAC	10	
12.	Sand Paper P100	M	10	
13.	Red Oxide paint	L	40	
14.	Grey Oxide paint	L	60	
15.	Turpentine	L	20	
16.	Painting Brushes 3"	PC	20	
17.	Painting Brushes 4"	PC	20	
18.	Ordinary Portland Cement 50 Kg each	BAG	2760	
19.	Box Profile Iron sheets 3m	PC	320	
20.	(Green in colour) 2m	PC	76	
21.	White Tiles 300mm x 300mm	M <sup>2</sup>	65	

***Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.***

22.	White Cement 50 Kg each	BAG	2	
23.	BRC (48mx2m per roll) A142	M <sup>2</sup>	13	
24.	Binding wire 50 Kg	Roll	1	

Note: Bidders response column to be filled with either Yes (Y) or No (N) to depict compliance or non – compliance to Specification.

**Schedule Two (2) – Workshop Shed Materials.**

No.	Item Description	UoM	Qty	Bidder's Response Column (Y/N)
1.	Ballast 3/4"	Ton	563	
2.	Natural quarry construction blocks 9" x 9"	ft	100	
3.	Clean River Sand	Ton	320	
4.	Timber 8" x 1"	Ft	650	
5.	Machine-Cut Construction blocks 6" x 9"	ft	1600	

Note: Bidders response column to be filled with either Yes (Y) or No (N) to depict compliance or non – compliance to Specification.

**Schedule Three (3) – Mobile Plant Workshop Oil Trap.**

No.	Item Description	UoM	Qty	Bidder's Response Column (Y/N)
1.	Hoop Iron 48 Kg	Roll	1	
2.	BRC A142	M2	6	
3.	Binding Wire 25 Kg	Roll	1	
4.	Water proof cement 25 Kg	BAG	10	
5.	Ordinary Portland Cement 50 Kg each	BAG	12	

***Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.***

6.	Clean River Sand	Ton	2	
7.	Reinforcement bars D12	PC	24	
8.	Reinforcement bars D16	PC	28	
9.	PVC Pipes (Pressure C/E) 200mm Diameter	PC	10	
10.	PVC Pipes (Pressure C/E) 100mm Diameter	PC	8	
11.	PVC Pipes (Pressure C/E) 75mm Diameter	PC	4	
12.	PVC Flow Traps 200mm Diameter	PC	3	
13.	PVC Elbow joint 75mm Diameter	PC	2	
14.	100mm Diameter	PC	6	
15.	PVC T-Joints 75mm Diameter	PC	1	
16.	Cast Iron Covers/fiber 600mm x 450mm	PC	6	

Note: Bidders response column to be filled with either Yes (Y) or No (N) to depict compliance or non – compliance to Specification.

**SECTION VI – PRICE SCHEDULE FOR SUPPLY & DELIVERY OF MOBILE PLANT WORKSHOP CONSTRUCTION MATERIALS.**

**Schedule One (1) – Workshop Shed Materials (Hardware).**

<b>No.</b>	<b>Item Description</b>	<b>UoM</b>	<b>Qty</b>	<b>Unit Price in Kshs</b>	<b>Total Price in Kshs</b>
1.	Tubes (6m long each) 3" x 2" x 3mm	PC	90		
2.	Tubes (6m long each) 2" x 2" x 3mm	PC	30		
3.	Z-Bars (6m long each) 4" x 2" x 3mm	PC	125		
4.	J-Bolts complete with nuts and rubbers 4"	KG	200		
5.	Reinforcement bars D12	PC	25		
6.	Angle lines (6m long each) 3" x 3" x 8mm	PC	7		
7.	Heavy gauge black sheet 8ft x 4ft x 4mm	PC	90		
8.	Hoop Iron 48 Kg each	Roll	2		
9.	Mild Steel Welding Rods (Fontarc / Weldrod) 3.25mm	PAC	2		
10.	Cutting Discs 9"	PAC	50		
11.	Grinding Discs 7"	PAC	10		
12.	Sand Paper P100	M	10		
13.	Red Oxide paint	L	40		
14.	Grey Oxide paint	L	60		
15.	Turpentine	L	20		
16.	Painting Brushes 3"	PC	20		
17.	Painting Brushes 4"	PC	20		
18.	Ordinary Portland Cement 50 Kg each	BAG	2760		
19.	Box Profile Iron sheets 3m	PC	320		
20.	(Green in colour) 2m	PC	76		
21.	White Tiles 300mm x 300mm	M <sup>2</sup>	65		
22.	White Cement 50 Kg each	BAG	2		

*Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.*

23.	BRC (48mx2m per roll) A142	M <sup>2</sup>	13		
24.	Binding wire 50 Kg	Roll	1		

Tenderer's Name \_\_\_\_\_

Authorized Signature, \_\_\_\_\_

Date and Official Stamp \_\_\_\_\_

**No correction of errors** -\_The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendments in any way by any person or entity.

**Schedule Two (2) – Workshop Shed Materials.**

No.	Item Description	UoM	Qty	Unit Price in Kshs	Total Price in Kshs
1.	Ballast 3/4"	Ton	563		
2.	Natural quarry construction blocks 9" x 9"	ft	100		
3.	Clean River Sand	Ton	320		
4.	Timber 8" x 1"	Ft	650		
5.	Machine-Cut Construction blocks 6" x 9"	ft	1600		

Tenderer's Name \_\_\_\_\_

Authorized Signature, \_\_\_\_\_

Date and Official Stamp \_\_\_\_\_

**No correction of errors** -\_The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendments in any way by any person or entity.

**Schedule Three (3) – Mobile Plant Workshop Oil Trap.**

No.	Item Description	UoM	Qty	Unit Price in Kshs	Total Price in Kshs
1.	Hoop Iron 48 Kg	Roll	1		
2.	BRC A142	M2	6		
3.	Binding Wire 25 Kg	Roll	1		
4.	Water proof cement 25 Kg	BAG	10		
5.	Ordinary Portland Cement 50 Kg each	BAG	12		
6.	Clean River Sand	Ton	2		
7.	Reinforcement bars D12	PC	24		
8.	Reinforcement bars D16	PC	28		
9.	PVC Pipes (Pressure C/E) 200mm Diameter	PC	10		
10.	PVC Pipes (Pressure C/E) 100mm Diameter	PC	8		
11.	PVC Pipes (Pressure C/E) 75mm Diameter	PC	4		
12.	PVC Flow Traps 200mm Diameter	PC	3		
13.	PVC Elbow joint 75mm Diameter	PC	2		
14.	100mm Diameter	PC	6		
15.	PVC T-Joints 75mm Diameter	PC	1		
16.	Cast Iron Covers/fiber 600mm x 450mm	PC	6		

Tenderer's Name \_\_\_\_\_

Authorized Signature, \_\_\_\_\_

Date and Official Stamp \_\_\_\_\_

**No correction of errors -** The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendments in any way by any person or entity.

***Tender for Supply & Delivery of Mobile Plant Workshop Construction Materials.***

## SECTION VII - STANDARD FORMS

### Notes on the sample Forms

#### 1. 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. Mandatory Confidential Business Questionnaire** - Bidder MUST Fill, Sign & Stamp the questionnaire

**3. Declaration of undertaking** not to engage in Corrupt Fraudulent Practice – Bidders MUST sign, Fill & Stamp the declaration form not to engage in corrupt practices

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

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

**6. 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.

**7. Power of Attorney** – Provide the name, title and designation of the person nominated to sign and transact business with GDC on behalf of your company. The power of attorney should be witnessed by an advocate

**7.1 FORM OF TENDER**

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

To: \_\_\_\_\_  
*[name and address of GDC]*

Gentlemen and/or Ladies:

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

We undertake, if our Tender is accepted, to supply and deliver the drilling or fishing item quoted for in accordance with the technical specifications/Schedule of Requirements.

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 .....( *GDC*).

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.

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.

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 \_\_\_\_\_



**7.2 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.  
 .....  
 Plot No..... Street/Road  
 .....  
 Postal Address ..... Tel No. .... Fax ..... E mail  
 .....  
 Nature of Business  
 .....  
 Registration Certificate No.  
 .....  
 Maximum value of business which you can handle at any one time – Kshs.  
 .....  
 Name of your bankers ..... Branch  
 .....

	<p><b>Part 2 (a) – Sole Proprietor</b></p> <p>Your name in full ..... Age                  .....                  Nationality ..... Country of origin                  .....                  • Citizenship details                  .....                  .....</p>																
	<p><b>Part 2 (b) Partnership</b></p> <p>Given details of partners as follows:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;"></th> <th style="width: 35%;">Name</th> <th style="width: 35%;">Nationality</th> <th style="width: 15%;">Citizenship Details</th> </tr> </thead> <tbody> <tr> <td>Shares</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td></td> <td>.....</td> <td></td> <td></td> </tr> </tbody> </table>		Name	Nationality	Citizenship Details	Shares				1.	.....	.....	.....		.....		
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	.....																

	2. .... ..... 3. .... ..... 4. .... .....																												
<b>Part 2 (c) – Registered Company</b>																													
Private or Public ..... State the nominal and issued capital of company- Nominal Kshs. .... Issued Kshs. .... Given details of all directors as follows																													
	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 40%;">Name</th> <th style="width: 30%;">Nationality</th> <th style="width: 20%;">Citizenship Details</th> </tr> </thead> <tbody> <tr> <td>Shares</td> <td></td> <td></td> <td></td> </tr> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>5.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>		Name	Nationality	Citizenship Details	Shares				1.	.....	.....	.....	2.	.....	.....	.....	3.	.....	.....	.....	4.	.....	.....	.....	5.	.....	.....	.....
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5.	.....	.....	.....																										
Date ..... Signature of Candidate & Stamped .....																													

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

### 7.3 DECLARATION OF UNDERTAKING

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the Public Procurement & Disposal Act 2015

We also underscore the importance of adhering to the law in the implementation of the project. We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country.

We also declare that our company/sub-contractors/ all members of the consortium has/have not been debarred to engage in procurement/ included in the list of sanctions.

We acknowledge that, the client is entitled to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

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

(Name of company)

(Signature(s))

**7.4 PERFORMANCE SECURITY FORM**

To .....  
[name of GDC]

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

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

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

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

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

Signed and seal of the Guarantors

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

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

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

## 7.5 TENDER SECURITY FORM

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

THE CONDITIONS of this obligation are:-

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

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

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

\_\_\_\_\_  
[signature of the bank]  
(Amend accordingly if provided by Insurance Company)

**7.6 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 \_  
\_\_\_\_\_

**7.7 POWER OF ATTORNEY**

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

*Note: This power of attorney should be on the letterhead duly signed and stamped nominating a representative to transact and sign document on behalf of your company.*