

**REPUBLIC OF KENYA**



**COUNTY GOVERNMENT OF NYERI**



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**TENDER DOCUMENT FOR**  
**REQUEST FOR PROPOSAL FOR THE SUPPLY, DELIVERY, INSTALLATION,**  
**TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH**  
**MANAGEMENT INFORMATION SYSTEM**

**TENDER NUMBER: CGN/HEALTH/40/2024-2025**

**NEGOTIATION NO:1882361**

**MULTI-YEAR PROJECT**

**TENDER CLOSING DATE:9<sup>th</sup> JUNE 2025**

**TIME:11:00A.M**



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## SECTION 1 (A) - REQUEST FOR PROPOSAL (RFP)

**DESCRIPTION: REQUEST FOR PROPOSAL FOR THE REQUEST FOR PROPOSAL FOR THE SUPPLY, DELIVERY, INSTALLATION, TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH MANAGEMENT INFORMATION SYSTEM.**

**TENDER NO.: CGN/HEALTH/40/2024-2025**

The County Government of Nyeri invites sealed tenders for the provision of services.

Tender documents may be viewed and downloaded for free from the website [www.nyeri.go.ke](http://www.nyeri.go.ke) or the PPIP (Public Procurement Information Portal)

The Tenderer shall chronologically serialize all pages of the tender documents submitted. Completed tenders must be delivered to the address below on or before **9<sup>th</sup> June 2025 at 11:00am**

Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers designated representatives who choose to attend at the address below.

Late tenders will be rejected.

You are required to complete the forms provided, attach required and relevant documentation for your proposal in 2 envelopes (1-Technical; 1-Financial) clearly marked as

- i) **TECHNICAL PROPOSAL – SUPPLY, DELIVERY, INSTALLATION, TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH MANAGEMENT INFORMATION SYSTEM**
- ii) **FINANCIAL PROPOSAL – SUPPLY, DELIVERY, INSTALLATION, TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH MANAGEMENT INFORMATION SYSTEM**

Then put together in a larger envelope.

Completed tender documents clearly marked the tender number and tender name bearing no indication of the tenderer should be addressed to:

THE COUNTY SECRETARY  
COUNTY GOVERNMENT OF NYERI  
P. O BOX 1112-10100  
NYERI

And placed in the tender box located at the County Headquarter, Town hall ground floor, Located along Kenyatta road, Nyeri Town.

## SECTION 2. INSTRUCTIONS TO CONSULTANTS AND DATA SHEET

### Section 2(a). Instructions to Consultants (ITC)

*[Notes to the Procuring Entity: this part of Section 2, Instructions to Consultants, shall not be modified. Any necessary changes, to address specific issues, to supplement, but not over-write, the provisions of the Instructions to Consultants (ITC), shall be introduced through the Data Sheet only. This "Notes to the Procuring Entity" should be deleted from the final RFP issued to the Consultants].*

#### A. GENERAL PROVISIONS

##### 1. Meanings/Definitions

- a) "Affiliate(s)" means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- b) "Applicable Law" means the laws and any other instruments having the force of law in Kenya.
- c) "Procuring Entity" means the entity that is carrying out the consultant selection process and signs the Contract for the Services with the selected Consultant.
- d) "Consultant" means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Procuring Entity under the Contract.
- e) "Contract" means a legally binding written agreement signed between the Procuring Entity and the Consultant and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- f) "Data Sheet" means an integral part of the Instructions to Consultants (ITC) Section 2 that is used to reflect specific assignment conditions to supplement, but not to over-write, the provisions of the ITC.
- g) "Day" means a calendar day unless otherwise specified as "Business Day". A Business Day is any day that is an official working day in Kenya and excludes official public holidays.
- h) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or Joint Venture member(s).
- i) "Government" means the Government of the Republic of Kenya.
- j) "In writing" means communicated in written form such as by mail, e-mail, fax, including, if specified in the Data Sheet, distributed or received through the electronic-procurement system used by the Procuring Entity with proof of receipt.
- k) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- l) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is considered in the technical evaluation of the Consultant's proposal.
- m) "ITC" (this Section 2 of the RFP) means the Instructions to Consultants that provides the Consultants with all information needed to prepare their Proposals.
- n) "Letter of RFP" means the letter of invitation being sent by the Procuring Entity to the Consultants.
- o) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- p) "Proposal" means the Technical Proposal and the Financial Proposal of the Consultant.
- q) "Public Procurement Regulatory Authority (PPRA)" means the statutory authority of the Government of Kenya that is mandated with the role of regulating and monitoring compliance with the public procurement law and regulations.
- r) "RFP" means the Request for Proposals to be prepared by the Procuring Entity for the selection of Consultants.

- s) “Services” means the work to be performed by the Consultant pursuant to the Contract.
- t) “Sub-consultant” means an entity to whom the Consultant intends to subcontract any part of the Services while the Consultant remains responsible to the Procuring Entity during the whole performance of the Contract.
- v) “Terms of Reference (TORs)” means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, and expected results and deliverables of the assignment.

## **2. Introduction**

- 2.1 The Procuring Entity named in the Data Sheet intends to select a Consultant from those listed in the Request for Proposals (RFP), in accordance with the method of selection specified in the Data Sheet.
- 2.2 The Consultant are invited to submit a Technical Proposal and a Financial Proposal, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the Data Sheet. Attending any such pre-proposal conference is optional and is at the Consultants' expense.
- 2.4 The Procuring Entity will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the Data Sheet.

## **3. Conflict of Interest**

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, always holding the Procuring Entity's interest's paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 3.2 The Consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of the Procuring Entity. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultants shall not be hired under the circumstances set forth below:

- i) *Conflicting Activities*

- Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Procuring Entity to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

- ii) *Conflicting Assignments*

- Conflict among consulting assignments: A Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may conflict with another assignment of the Consultant for the same or for another Procuring Entity.

- (iii) *Conflicting Relationships*

- Relationship with the Procuring Entity's staff: a Consultant (including its Experts and Sub-consultants) that has a close business or personal relationship with senior management or professional staff of the Procuring Entity who has the ability to influence the bidding process and: (i) are directly or indirectly involved in the preparation of the Terms of Reference for the assignment,(ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from such relationship has been resolved in a manner that determines there is no conflict to affect this selection process.

- iv) *Others*

- Any other types of conflicting relationships as indicated in the Data Sheet.

#### **4. Unfair Competitive Advantage**

4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Procuring Entity shall indicate in the Data Sheet and make available to all Consultants together with this RFP all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.

#### **5. Corrupt and Fraudulent Practices**

5.1 Consultant firms or any of its members shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. Consultant firms or any of its members that are proven to have been involved in any of these practices shall be automatically disqualified and would not be awarded a contract.

#### **5.2 Collusive practices**

5.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any Consultant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Consultants shall be required to complete and sign the “Certificate of Independent Proposal Determination” annexed to the Proposal Form.

5.3 In further pursuance of this policy, Consultants shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Government and its agencies to inspect all accounts, records and other documents relating to any short-listing process, Proposal submission, and contract performance (in the case of award), and to have them audited by auditors, investigators or compliance officers.

#### **6. Eligibility**

6.1 In selection of Consultants, short-listing shall be composed of firms or individuals who belong to the same line of professional business and who are almost of the same capability.

6.2 Unless otherwise specified in the Data Sheet, the Procuring Entity permits Consultants including proposed experts, joint ventures and individual members from all countries and categories to offer consulting services. The maximum number of members so far JV shall be specified in the TDS.

6.3 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for submission of proposals, but it shall be a condition of contract award and signature. AJV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website [www.cak.go.ke](http://www.cak.go.ke)

6.4 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

6.5 It is the Consultant's responsibility to ensure that it's Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements.

6.6 As an exception to the foregoing ITC 6.1 and 6.2 above:

- a) Sanctions-A firm or an individual that has been debarred from participating in public procurement shall be ineligible to be awarded a contract, or to benefit from the contract, financially or otherwise, during the debarment period. The list of debarred firms and individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).
- b) Prohibitions-Firms and individuals of a country or goods in a country maybe ineligible if:
  - i) As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
  - ii) By an act of compliance with a decision of the United Nations Security Council taken under Chapter

VII of the Charter of the United Nations, Kenya prohibits any import of goods or services from that country or any payments to any country, person, or entity in that country.

- c) Restrictions for Government-owned Enterprises-Government-owned enterprises or institutions in Kenya shall be eligible only if they can establish that they
  - i) Are legally and financially autonomous,
  - ii) Operate under commercial law, and
  - iii) That they are not dependent agencies of the Procuring Entity.
- d) Restrictions for public employees - Government officials and civil servants and employees of public institutions shall not be hired for consulting contracts.

6.7 Margin of Preference and Reservations-no margin of preference shall be allowed in the selection of consultants. Reservations may however be allowed to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the Data Sheets. A procuring entity shall ensure that the invitation to submit proposals specifically includes only businesses or firms belonging to one group.

## **B. Preparation of Proposals**

### **7. General Considerations**

7.1 In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

### **8. Cost of Preparation of Proposal**

8.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Procuring Entity is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without there by incurring any liability to the Consultant.

### **9. Language**

9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Procuring Entity shall be written in the English language.

### **10. Documents Comprising the Proposal**

10.1 The Proposal shall comprise the documents and forms listed in the Data Sheet.

10.2 The Consultant shall declare in the Financial Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid rigging.

10.3 The Consultant shall furnish information on commissions, gratuities and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal Submission Form.

### **11. Only One Proposal**

11.1 The Consultant (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude Sub-consultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the Data Sheet.

11.2 Members of a joint venture may not also make an individual Proposal, be a subcontractor in a separate proposal or be part of another joint venture for the purposes of the same Contract.

- 11.3 Should a Joint Venture subsequently win the Contract, it shall consider whether an application for exemption from the Competition Authority of Kenya is merited pursuant to Section 25 of the Competition Act 2010.

## **12. Proposal Validity**

### **a. Proposal Validity Period**

- 12.1 The Data Sheet indicates the period during which the Consultant's Proposal must remain valid after the Proposal submission deadline.
- 12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.
- 12.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation and may be subject to sanctions in accordance with IT C5.

### **b. Extension of Validity Period**

- 12.4 The Procuring Entity will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Procuring Entity may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.
- 12.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts, except as provided in ITC 12.7.
- 12.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

### **b. Substitution of Key Experts at Validity Extension**

- 12.7 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Procuring Entity together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluations core, however, will remain to be based on the evaluation of the CV of the original Key Expert.
- 12.8 If the Consultant fails to provide a substitute Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Procuring Entity, such Proposal will be rejected.

### **c. Sub-Contracting**

- 12.9 The Consultant shall not subcontract the whole or part of the Services without reasonable justification and written approval of the Procuring Entity.

## **13. Clarification and Amendment of RFP**

- 13.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the Data Sheet before the Proposals' submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Procuring Entity's address indicated in the Data Sheet. The Procuring Entity will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all Consultants. Should the Procuring Entity deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:
- 13.2 At any time before the proposal submission deadline, the Procuring Entity may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all invited Consultants and will be binding on them. The Consultants shall acknowledge receipt of amendments in writing.

13.3 If the amendment is substantial, the Procuring Entity may extend the proposal submission deadline to give the Consultants reasonable time to take an amendment in to account in their Proposals.

13.4 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

#### **14. Preparation of Proposals–Specific Considerations**

14.1 While preparing the Proposal, the Consultant must give particular attention to the following:

- (a) If a Consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so only if only one Proposal is submitted, in accordance with ITC 11. Above. A Consultant cannot associate with shortlisted Consultant(s). When associating with non-shortlisted/non-invited firms in the form of a joint venture or a sub-consultancy, the shortlisted/invited Consultant shall be a lead member. If shortlisted/invited Consultant associates with each other, any of them can be a lead member.
- (b) The Procuring Entity may indicate in the Data Sheet the estimated amount or Key Experts' time input (expressed in person-month), or the Procuring Entity's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Consultant's own estimates for the same. This clause shall not apply when using Fixed Budget selection method.
- (c) For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input shall not be disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.
- d) Key Experts shall not appear in more than one proposal unless so allowed in the Data Sheet. Invited firms must confirm and ensure their Key experts do not appear in proposal of other invited firms, otherwise proposals with Key experts appearing in other proposals will be rejected.

#### **15. Technical Proposal Format and Content**

15.1 The Technical Proposal shall be prepared using the Standard Forms provided in Section 3 of the RFP and shall comprise the documents listed in the Data Sheet under ITC 10.1. The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

15.2 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

#### **16. Financial Proposal**

16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the Data Sheet. Irrespective of the consultant selection method, any Consultant that does not submit itemized and priced financial proposal, or merely refers the Procuring Entity to other legal instruments for the applicable minimum remuneration fees shall be considered non-responsive.

##### **a. Price Adjustment**

16.2 For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates apply if so, stated in the Data Sheet.

##### **b. Taxes**

16.3 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the Data Sheet. Information on taxes in Kenya is provided in the Data Sheet.

**c. Currency of Proposal**

16.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in Kenya Shillings.

**d. Currency of Payment**

16.5 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

**C. SUBMISSION, OPENING AND EVALUATION**

**17. Submission, Sealing, and Marking of Proposals**

17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with ITC 10 (Documents Comprising Proposal). Consultants shall mark as “CONFIDENTIAL” information in their Proposals which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information. The submission can be done by mail or by hand. If specified in the Data Sheet, the Consultant has the option of submitting its Proposals electronically.

17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and the Financial Proposals and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.

17.3 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.

17.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.

17.5 The signed Proposal shall be marked “ORIGINAL”, and its copies marked “COPY” as appropriate. The number of copies is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

**18. Sealing and Marking of Proposals**

18.1 The firm shall deliver the Proposals in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the assignment, addressed to the Procuring Entity and a warning “DO NOT OPEN BEFORE..... (The time and date for proposal opening date”. Within the single envelope, package or container, the Firm shall place the following separate, sealed envelopes:

18.2 In the single sealed envelope, or in a single sealed package, or in a single sealed container the following documents shall be closed and shall be addressed as follows:

- i) in an envelope or package or container marked “ORIGINAL”, all documents comprising the Technical Proposal, as described in ITC11;
- ii) in an envelope or package or container marked “COPIES”, all required copies of the Technical Proposal;
- iii) in an envelope or package or container marked “ORIGINAL”, all required copies of the Financial Proposal; and

18.3 The inner envelopes or packages or containers shall:

- i) Bear the name and address of the Procuring Entity.
- ii) Bear the name and address of the Firm; and
- iii) Bear the name and Reference number of the Assignment.

18.4 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the proposal. Proposals that are misplaced or opened prematurely will not be accepted.

18.5 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by the Procuring Entity no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by the Procuring Entity after the deadline shall be declared late and rejected, and promptly returned unopened.

## **19. Confidentiality/Canvassing**

19.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Procuring Entity on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.

19.2 Any attempt by Consultants or any one on behalf of the Consultant to influence improperly the Procuring Entity in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal and may be subject to the application of prevailing PPRA's debarment procedures.

19.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Consultant wishes to contact the Procuring Entity on any matter related to the selection process, it should do so only in writing.

## **20. Opening of Technical Proposals**

20.1 The Procuring Entity's opening committee shall conduct the opening of the Technical Proposals in the presence of the Consultants' authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored by the Procuring Entity or with a reputable public auditor or independent authority until they are opened in accordance with ITC 22.

20.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.

## **21. Proposals Evaluation**

21.1 Subject to provision of ITC 15.1, the valuers of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and after the Procuring Entity notifies all the Consultants in accordance with ITC 22.1.

21.2 The Consultant is not permitted to alter or modify its Proposal in anyway after the proposal submission deadline except as permitted under ITC12.7. While evaluating the Proposals, the Evaluation Committee will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.

## **22. Evaluation of Technical Proposals**

22.1 The Procuring Entity's evaluation committee shall evaluate the Technical Proposals that have passed the eligibility and mandatory criteria, on the basis of their responsiveness to the Terms of Reference and the RFP. The eligibility and mandatory criteria shall include the following and any other that may include in the Data sheet.

- a) Firm has submitted the required number of copies of the Technical Proposals.
- b) Firm has submitted a sealed financial proposal.
- c) The Proposal is valid for the required number of days.
- d) The Technical Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
- e) The Technical Proposal is complete with all the forms and required documentary evidence submitted.
- f) A valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue

Authority in accordance with ITT 3.14 for Kenyan firms.

- g) Key Experts are from eligible countries.
  - h) Key Experts do not appear in more than one proposal, if so required.
  - i) A short-listed firm has not participated in more than one proposal, if so required.
  - j) The Consultant is not insolvent, in receivership, bankrupt or in the process of being wound up.
  - k) The Consultant, its sub-consultants and experts have not engaged in or been convicted of corrupt or fraudulent practices.
  - l) The Consultant is neither precluded from entering into a Contract nor debarred by PPRA.
  - m) The firm has not proposed employing public officials, civil servants and employees of public institutions.
  - n) The Consultant, its sub-consultants and experts have no conflicts of interest.
- 22.2 Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Data Sheet.

## **23. Public Opening of Financial Proposals**

### **23.1 Unsuccessful Proposals**

After the technical evaluation is completed, the Procuring Entity shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score, advising them the following: (i) their Proposal was not responsive to the RFP and TOR or did not meet the minimum qualifying technical score; (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion; (iii) their Financial Proposals will be returned unopened after completing the selection process and Contract signing; and (iv) notify them of the date, time and location of the public opening of the Financial Proposals and invite them to attend.

### **23.2 Financial Proposals for QBS, CQS and SSS**

Following the ranking of the Technical Proposals, when the selection is based on QBS or CQS, the top-ranked Consultant is invited to negotiate the Contract. Only the Financial Proposal of the technically top-ranked Consultant is opened by the opening committee. All other Financial Proposals shall be returned unopened after the Contract negotiations are successfully concluded and the Contract is signed with the successful Consultant.

When the selection is based on the SSS method and if the invited Consultant meets the minimum technical score required passing, the financial proposal shall be opened and the Consultant invited to negotiate the contract.

### **23.3 Financial Proposals for QCBS, FBS, LCS**

Following the ranking of the Technical Proposals, and after internal approvals, the Procuring Entity shall simultaneously notify in writing those Consultants whose Proposals were considered responsive to the RFP and TOR, and that have achieved the minimum qualifying technical score, advising them the following: (i) their Proposal was responsive to the RFP and TOR and met the minimum qualifying technical score; (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion; (iii) their Financial Proposal will be opened at the public opening of Financial Proposals; and (iv) notify them of the date, time and location of the public opening and invite them for the opening of the Financial Proposals.

### **23.4 Opening of Financial Proposals**

The opening date should allow the Consultants sufficient time to decide for attending the opening and shall be no less than five (5) Business Days from the date of notification of the results of the technical evaluation, described in ITC 22.1 and 22.2.

The Consultant's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant's choice.

The Financial Proposals shall be opened publicly by the Procuring Entity's opening committee in the presence of the representatives of the Consultants and anyone else who chooses to attend. Any interested party who wishes to attend this public opening should contact the Procuring Entity as indicated in the Data Sheet. At the opening, the names of the Consultants, and the overall technical scores, including the break-down by criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Consultants who submitted Proposals.

## **24. Correction of Errors**

- 24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.
- 24.2 Time-Based Contracts-If a Time-Based contract form is included in the RFP, in case of discrepancy between (i) a partial amount(sub-total) and the total amount, or (ii)between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between figures and words, the later will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Procuring Entity's evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.
- 24.3 Lump-Sum Contracts - If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical correction nor price adjustments shall be made. The total price, net of taxes understood as per ITC 24 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

## **25. Taxes**

- 25.1 Subject to ITC 24.2, all taxes are deemed to be included in the Consultant's financial proposal as separate items, and, therefore, considered in the evaluation.
- 25.2 All local identifiable taxes levied on the contract in voices (such as sales tax, VAT, excise tax, or any similar taxes or levies) and in come and withholding tax payable to Kenya on the remuneration of non-resident Experts for the services rendered in Kenya are dealt with in accordance with the instructions in the Data Sheet.

## **26. Conversion to Single Currency**

- 26.1 For the evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

## **27. Abnormally Low Prices**

- 27.1 An Abnormally Low Price is one where the financial price, in combination with other constituent elements of the proposal, appears unreasonably low to the extent that the price raises material concerns with the Procuring Entity as to the capability of the Consulting firm to perform the Contract for the offered price.
- 27.2 In the event of identification of a potentially Abnormally Low Price by the evaluation committee, the Procuring Entity shall seek written clarification from the firm, including a detailed price analyses of its price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risk sand responsibilities and any other requirements of the RFP document.
- 27.3 After evaluation of the price analyses, if the Procuring Entity determines that the firm has failed to demonstrate its capability to perform the contract for the offered price, the Procuring Entity shall reject the firm's proposal.

## **28. Abnormally High Prices**

- 28.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the proposal, appears unreasonably too high to the extent that the Procuring Entity is

concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Consultants is compromised.

28.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct, and review the RFP to check if the specifications, TOR, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Consultants on the reason or the high proposal price. The Procuring Entity shall proceed as follows:

- i) If the proposal price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
- ii) If specifications, TOR, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all proposals and may re-invite for proposals for the contract based on revised estimates, specifications, TOR, scope of work and conditions of contract.

28.3 If the Procuring Entity determines that the Proposal Price is abnormally too high because genuine competition between Consultants is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Proposals and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before re-inviting for proposals.

## **29. Combined Quality and Cost Evaluation**

### **a. Quality and Cost Based Selection (QCBS) Method**

29.1 In the case of Quality and Cost Based Selection (QCBS), the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant that achieves the highest combined technical and financial score will be notified and invited for negotiations.

### **b. Fixed Budget Selection (FBS) Method**

29.2 In the case of FBS, those Proposals that exceed the budget indicated in ITC 14.1.4 of the Data Sheet shall be rejected. The Procuring Entity's evaluation committee will select the Consultant with the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, notify and invite such Consultant to negotiate the Contract.

### **c. Least Cost Selection (LCS) Method**

29.3 In the case of Least-Cost Selection (LCS), the Procuring Entity's evaluation committee will select the Consultant whose Proposal is the lowest evaluated total price among those Proposals that achieve the minimum technical score required to pass, notify the Consultant and invite the Consultant to negotiate the Contract.

### **d. Combined Technical and Evaluation Report**

29.4 The evaluation committee shall prepare a combined technical and financial evaluation report, with specific recommendations for award or otherwise and subject to the required approvals within the Procuring Entity prior to notifications and invitation of Consultant for negotiations.

## **30. Notification of Intention to enter into a Contract/Notification of Award**

30.1 The Procuring Entity shall send to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Consultant. The **Notification of Intention to enter into a Contract / Notification of Award** shall contain, at a minimum, the following information:

- i) The name and address of the Consultant with whom the Procuring Entity successfully negotiated a contract;
- ii) the contract price of the successful Proposal;
- iii) a statement of the reasons why the recipient's Proposal was unsuccessful

- iv) the expiry date of the Standstill Period, and
- v) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

### **31. Standstill Period**

- 31.1 The Standstill Period shall be the number of days stated in the Data Sheet. The Standstill Period commences the day after the date the Procuring Entity has transmitted to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract. The Contract shall not be signed earlier than the expiry of the Standstill Period. This period shall be allowed for aggrieved Consultants to lodge an appeal. The procedure for appeal and the authority to determine the appeal or complaint is as indicated in the Data Sheet.

## **D. NEGOTIATIONS AND AWARD**

### **32. Negotiations**

- 32.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Consultant.

- 32.2 The evaluation committee shall prepare minutes of negotiations that are signed by the Accounting Officer and the Consultant's authorized representative.

### **32.3 Availability of Key Experts**

The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a prerequisite to the negotiations, or, if applicable, a replacement in accordance with ITC 12. Failure to confirm the Key Experts' availability may result in the rejection of the Consultant's Proposal and the Procuring Entity proceeding to negotiate the Contract with the next-ranked Consultant.

- 32.4 Notwithstanding the above, the substitution Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate.

### **32.5 Technical negotiations**

The technical negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Procuring Entity's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.

### **32.6 Financial negotiations**

The financial negotiations include the clarification of the Consultant's tax liability in Kenya and how it should be reflected in the Contract. All applicable taxes shall be itemized separately and included in the contract price.

- 32.7 If the selection method included cost as a factor in the evaluation (that is QCBS, FBS, LCS), the unit rates and the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

- 32.8 Where QBS or CQS methods was used for a *Lump-sum Contract* as indicated in the RFP, the unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by consultants in similar contracts or the professional practice. In such case, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QB and CQS; and (ii) clarifying remuneration rates' structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations – Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant to open its financial proposal and negotiate the contract.

32.9 In the case of a *Time- Based contract*, negotiation of unit rates shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by consultants in similar contracts. In such case, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QBS and CQS; and (ii) clarifying remuneration rates 'structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations-Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant for negotiations.

32.10 Where SSS method was used as indicated in the RFP, both the unit rates and total price shall be negotiated. If the negotiations fail, the Procuring Entity shall terminate the Consultant selection process. In that event, the Procuring Entity shall review the consultancy requirements and market conditions prior to deciding to use an appropriate selection method to again procure the consulting services.

### **33. Conclusion of Negotiations**

33.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Accounting Officer and the Consultant's authorized representative and minutes prepared to record the outcome of the negotiations.

33.2 If the negotiations fail, the Procuring Entity shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Procuring Entity shall terminate the negotiations informing the Consultant of the reasons for doing so. The Procuring Entity will invite the next-ranked Consultant to negotiate a Contract. Once the Procuring Entity commences negotiations with the next-ranked Consultant, the Procuring Entity shall not reopen the earlier negotiations.

### **34. Letter of Award**

34.1 Upon expiry of the Standstill Period, specified in ITC 28.1, after satisfactorily addressing any appeal that has been filed within the Standstill Period, and upon successful negotiations, the Procuring Entity shall send a Letter of Award to the successful Consultant. The letter shall confirm the Procuring Entity's award of Contract to the successful Consultant and requesting the Consultant to sign and return the draft negotiated Contract within Twenty-One (21) Days from the date of the Letter of Award.

### **35. Signing of Contract**

35.1 The Contract shall be signed prior to the expiration of the Proposal Validity Period and promptly after expiry of the Standstill Period, specified in ITC 28.1 and upon satisfactorily addressing any complaint that has been filed within the Standstill Period.

35.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

### **36. Publication of Procurement Contract**

36.1 Within the period specified in the Data Sheet, the Procuring Entity shall publish the awarded Contract which shall contain, at a minimum, the following information: (a) name and address of the Procuring Entity; (b) name and reference number of the contract being awarded, (c) the selection method used; (d) names of the consultants that submitted proposals; (e) names of all Consultants whose Proposals were rejected or were not evaluated; (f) the name of the successful consultant, the final total contract price, the contract duration and a summary of its scope.

36.2 Consider carefully the information on Consultants to be published, particularly evaluation by the Procuring Entity, to avoid disclosing information which can facilitate bid-rigging formation going forward. Suggest amendment as follows:

36.3 The awarded Contract shall be published on the Procuring Entity's website with free access if available and in the official procurement tender portal.

### **37. Procurement Related Complaint and Administrative Review**

37.1 The procedures for making Procurement-related Complaints shall be specified in the TDS.

37.2 A request for administrative review shall be made in the form provided under contract forms.

## SECTION 2 (B). DATA SHEET

*[“Notes to Procuring Entity” shown in brackets throughout the text are provided for guidance to prepare the Data Sheet; they should be deleted from the final RFP to be sent to the Consultants. Where an e-procurement system is used, modify the relevant parts of the Data Sheet to reflect thee-procurement process to be used in the consultant selection]*

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS												
<b>A. General Provisions</b>													
1(j)	<p>Electronic procurement system shall be used: (a) Yes ___ (b) No <input checked="" type="checkbox"/> ___</p> <p>If Yes; Electronic –Procurement System The Procuring Entity shall use the following electronic-procurement system to manage this Request for Proposal process: <i>[insert name of the e-system and url address or link]</i> The electronic-procurement system shall be used to manage the following part of the RFP process: <i>[list the parts of process e.g. issuing RFP, submissions of technical and financial Proposals, opening of Proposals etc. and insert such additional information in this Data Sheet as is required to describe these processes]</i></p>												
2.1	<p>Name of the Procuring Entity: <u>COUNTY GOVERNMENT OF NYERI</u></p> <p>The consultant selection method is: <i>[Procuring Entity to choose ONE of the selection methods by placing an X]</i></p> <table style="width: 100%; border: none;"> <tr> <td>Quality and Cost Based Selection Method (QCBS)</td> <td style="text-align: right;">[ <input checked="" type="checkbox"/> ]</td> </tr> <tr> <td>Quality Based Selection Method (QBS)</td> <td style="text-align: right;">[    ]</td> </tr> <tr> <td>Least Cost Selection Method (LCS)</td> <td style="text-align: right;">[    ]</td> </tr> <tr> <td>Consultant Qualification Selection Method (CQS)</td> <td style="text-align: right;">[    ]</td> </tr> <tr> <td>Fixed Budget Selection Method (FBS)</td> <td style="text-align: right;">[    ]</td> </tr> <tr> <td>Single Source Selection Method (SSS)</td> <td style="text-align: right;">[    ]</td> </tr> </table>	Quality and Cost Based Selection Method (QCBS)	[ <input checked="" type="checkbox"/> ]	Quality Based Selection Method (QBS)	[    ]	Least Cost Selection Method (LCS)	[    ]	Consultant Qualification Selection Method (CQS)	[    ]	Fixed Budget Selection Method (FBS)	[    ]	Single Source Selection Method (SSS)	[    ]
Quality and Cost Based Selection Method (QCBS)	[ <input checked="" type="checkbox"/> ]												
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Consultant Qualification Selection Method (CQS)	[    ]												
Fixed Budget Selection Method (FBS)	[    ]												
Single Source Selection Method (SSS)	[    ]												
2.2	<p>Financial Proposal to be submitted together with Technical Proposal in separate envelopes: <b>Yes</b></p> <p>The name of the assignment is: The name, objectives, and description of the assignment are: <b>SUPPLY, DELIVERY, INSTALLATION, TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH MANAGEMENT INFORMATION SYSTEM HEALTH MANAGEMENT INFORMATION SYSTEM</b></p>												
2.3	<p>A pre-proposal conference will be held: <b>No</b> <b>NB:</b> however firms wishing to bid are requested to visit the 7 hospitals before submitting final proposal to familiarize themselves with the scope of works in the different hospitals.i. e</p>												
2.4	<p>The Procuring Entity will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals:</p> <p>a) A soft copies data/ information gathering templates; Public Procurement &amp; Asset Disposal Act, 2015, and its attendant Regulations; relevant circulars and any other</p>												

Reference ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>relevant documents and information as may be requested by the consultant;</p> <p>b) To provide, to the consultant, any assistance that may be required during the course of execution of the contract.</p> <p>c) Nominate a project management committee which will maintain regular contact with the consultants on matters regarding this consultancy</p> <p>d) Make arrangements with the Procuring Entity for the entry and exit meetings (where applicable)</p>
3.3 (iv)	<i>[Insert any other conflicting relationships]</i> _____
4.1	<i>[If “Unfair Competitive Advantage” applies to the selection, explain how it is mitigated, including listing the reports, information, documents, etc. and indicating the sources where these can be downloaded or obtained by the Consultants]</i>
6.2	Maximum number of members in the Joint Venture (JV) shall be: <i>[nil]</i> .
6.6 (a)	The list of debarred firms and individuals is available at the PPRA’s website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>
6.7	The business will be registered with Registrar of companies in Kenya
<b>B. Preparation of Proposals</b>	
10.1	<p>The Proposal shall comprise the following:</p> <p>1<sup>st</sup> Inner Envelope with the Technical Proposal:</p> <p>Power of Attorney to sign the Proposal</p> <p>TECH-1: Technical Proposal Submission Form</p> <p>TECH-2: Consultant’s Organization and Experience</p> <p>TECH-3: Comments and Suggestions</p> <p>TECH-4: Description of Approach, Methodology and Workplan</p> <p>TECH-5: Work Schedule and Planning for Deliverables</p> <p>TECH-6: Team Composition, Assignment, and Key Experts’ Input</p> <p>TECH-7: Mandatory Documentary Evidence</p> <p>AND</p> <p>2<sup>nd</sup> Inner Envelope with the Financial Proposal:</p> <p>(1) FIN-1: Financial Proposal Submission Form</p> <p>(2) FIN-2: Summary of Costs</p> <p>(3) FIN-3: Breakdown of Remuneration</p> <p>(4) FIN-4: Breakdown of Reimbursable Expenses</p>
11.1	Participation of Sub-consultants, and Key Experts in more than one Proposal is permissible: <i>[select one option]</i> Yes _ or No ____
12.1	Proposals must remain valid for 120 days after the proposal submission deadline.
13.1	Clarifications may be requested no later than 5 days prior to the submission deadline. The contact information for requesting clarifications is: _ E-mail: <a href="mailto:procurement@nyeri.go.ke">procurement@nyeri.go.ke</a> , <a href="mailto:countysecretary@nyeri.go.ke">countysecretary@nyeri.go.ke</a>

Reference ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
14 (d)	Key Experts shall not appear in more than one proposal: YES
16.1(b)	The financial proposal shall be quoted in lump sum and must be inclusive of all incidental costs. No claim of reimbursable will be allowed. And <b>MUST</b> include Public Procurement Capacity Building Levy of 0.3% of financial proposal.
16.2	A price adjustment provision applies to remuneration rates: Yes _____ or No _____ <i>[The price adjustment applies to Time-Based contracts with a duration exceeding 18 months. In exceptional circumstances, price adjustment can also apply to Lump-Sum contracts assignments longer than 18 months in duration with prior agreement with the Procuring Entity]</i> <i>[If “Yes”, specify whether it applies to foreign and/or local inflation]</i>
16.3	[If the Procuring Entity has obtained a tax exemption applicable to the Contract, insert: “The Procuring Entity has obtained an exemption for the Consultant from payment of _____ <i>[insert the tax description such as VAT, withholding tax, duties, etc.]</i> in Kenya as per <i>[insert reference to the applicable official source that issued an exemption]</i> . <i>[If there is no tax exemption in Kenya, insert the following:</i> “Information on the Consultant’s tax obligations in the Procuring Entity’s country can be found on the Kenya Revenue Authority website: <a href="http://www.kra.go.ke">www.kra.go.ke</a> ”
16.4	The Financial Proposal shall be stated in the following currencies: Consultant may express the price for their Services in any fully convertible currency, singly or in combination of up to three foreign currencies. The Financial Proposal should state local costs in Kenya Shillings: Yes _____ or No _____.
<b>C. Submission, Opening and Evaluation</b>	
17.1	The Consultants shall not have the option of submitting their Proposals electronically.
17.5	Consultants must submit one (1) original and one (1 No.) additional copy of the technical and financial proposal.
18.5	The Proposals must be submitted no later than: <b>9<sup>th</sup> June 2025 at 11:00am</b>
20.1	The opening shall take place at: THE COUNTY SECRETARY COUNTY GOVERNMENT OF NYERI P. O BOX 1112-10100 NYERI And placed in the tender box located at the County Headquarter, Town hall ground floor, Located along Kenyatta road, Nyeri Town.
20.2	In addition, the following information will be read aloud at the opening of the Technical Proposals name of tenderers
22.1	Other eligibility and mandatory criteria shall be:  1) Certified copy of Incorporation/Registration Certificate  2) Certified copy of single business permit for year 2025  3) Certified copy of KRA Pin certificate  4) Certified Valid copy tax compliance certificate

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>5) Certificate of Independent Proposal Determination(attached)</p> <p>6) Attach Dully filled, signed and stamped Certificate of independent tender determination in the format provided.</p> <p>7) Attach a Duly filled, Signed and Stamped Self Declaration Form (FORM SD1) in the format provided.</p> <p>8) Attach a Duly filled, Signed and Stamped Self Declaration Form (FORM SD2) in the format provided.</p> <p>9) Attach Duly filled, Signed and Stamped Declaration and Commitment to The Code of Ethics in the format provided.</p> <p>10) Attach Current copy of CR12 for limited firms issued within the last one year prior to the date of the tender advert. Or Copies of Identity Cards of Proprietors for Business Names.</p> <p>11) Attach a bid bond of Ksh.340, 000.00/= from a bank and must remain valid for 170 days after the opening date of the tender.</p> <p>12) Certified valid certificate of accreditation with ICT Authority under Category 4 for Systems &amp; Application and Category 6 ICT Consultancy respectively.</p> <p>13) Valid ODPC Registration as a Data Processor</p>
22.2	<i>See technical evaluation criteria</i>
23.4	An online option of the opening of the Financial Proposals is offered: No
25.2	<p>For the evaluation, the Procuring Entity will include separate items of: (a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract's invoices; and (b) all additional local indirect tax on the remuneration of services rendered by experts.</p> <p>If a Contract is awarded, at Contract negotiations, all such taxes will be discussed, finalized using the itemized list and included in the Contract amount as a separate line, also indicating which taxes shall be paid by the Consultant and which taxes are withheld and paid by the Procuring Entity on behalf of the Consultant.</p>
26.1	<p>The single currency for the conversion of all prices expressed in various currencies into a single one is: _____ <i>[indicate Kenya Shillings or another fully convertible foreign currency]</i></p> <p>The official source of the selling exchange rate is: _____</p> <p>The date of the exchange rate is: _____</p> <p><i>[The date may be the same as the that for deadline for submission of proposals, or a date that is five business days prior to the submission deadline]</i></p>
29.1 (QCBS only)	<p>The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100. The formula for determining the financial scores (Sf) of all other Proposals is calculated as following:</p> <p><math>Sf = 100 \times Fm / F</math>, in which "Sf" is the financial score, "Fm" is the lowest price, and "F" the price of the proposal under consideration.</p> <p>The weights given to the Technical (T) and Financial (P) Proposals are:</p> <p>T = ____ <i>[Insert weight between 0.70 and 0.85]</i>, and</p> <p>P = _____ <i>[Insert weight between 0.15 and 0.30]</i></p> <p>Proposals are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: <math>S = St \times T\% + Sf \times P\%</math>.</p>

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
31	<p>The Standstill Period shall be: ___ days <i>[insert the minimum number of days legally allowed for appeals to Administrative Review Board]</i></p> <p>The procedures for making a procurement related complaint are detailed in the Public Procurement and Asset Disposal Act and Regulations. If a Consultant wishes to make a procurement related complaint or appeal, the Consultant shall submit its complaint to the Public Procurement Administrative Review Board.</p>
<b>D. Negotiations and Award</b>	
32.1	<p>Expected date and address for contract negotiations:  Date: _____ day/month/year <i>[for example, 15 January 2018]</i>  Address: _____</p>
35.2	<p>Expected date for the commencement of the Services:  Date: <i>[insert date, month and year]</i> at: _ <i>[insert location]</i></p>
36.1	<p>The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as following:  The publication will be done within ___ days after the contract signing <i>[Insert the legally recognised days for publishing the Contract Award Notice]</i></p>
37.1	<p>The procedures for making a Procurement-related Complaints are detailed in the “Regulations” available from the PPRA Website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>THE COUNTY SECRETARY  COUNTY GOVERNMENT OF NYERI  P. O BOX 1112-10100  NYERI</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <p>(i) the terms of the Tender Documents; and</p> <p>(ii) the Procuring Entity’s decision to award the contract.</p>

## SECTION III - EVALUATION AND QUALIFICATION CRITERIA

### APPENDIX TO INFORMATION TO CONSULTANTS

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information and to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

#### Clause Reference

2.1.1 The name of the Client is: Public Procurement Regulatory Authority

2.1.1 The method of selection is: Quality and Cost Based (QCBS)

2.1.2 Technical and Financial Proposals are requested: Yes  No

The name, objectives, and description of the assignment are: **SUPPLY, DELIVERY, INSTALLATION, TESTING AND IMPLEMENTATION OF A COUNTY INTEGRATED HEALTH MANAGEMENT INFORMATION SYSTEM HEALTH MANAGEMENT INFORMATION SYSTEM**

2.1.3 The consultants must familiarize themselves with the PPRA Procurement and Disposal Review Procedures and the applicable templates and formats.

The name(s), address (es) and telephone numbers of the Client's official(s) are:

THE COUNTY SECRETARY

COUNTY GOVERNMENT OF NYERI

P. O BOX 1112-10100

NYERI

Email: countysecretary@nyeri.go.ke

2.1.4 The Client will provide the following inputs:

- e) A soft copies data/ information gathering templates; Public Procurement & Asset Disposal Act, 2015, and its attendant Regulations; relevant circulars and any other relevant documents and information as may be requested by the consultant;
- f) To provide, to the consultant, any assistance that may be required during the course of execution of the contract.
- g) Nominate a project management committee which will maintain regular contact with the consultants on matters regarding this consultancy
- h) Make arrangements with the Procuring Entity for the entry and exit meetings(where applicable)

2.1.7 Price Charged for RFP Document: Free

2.2.1 Consultants may request a clarification of any of the RFP documents only up to five [5] days before the proposal submission date.

2.3.3 Joint Venture not applicable

2.3.4 Training is a specific component of this assignment: YES.

- 2.3.4 The tenderer shall submit one technical proposal that must:  
Meet the mandatory requirements as indicated in Section V – Terms of Reference.
- 2.4.1 The financial proposal shall be quoted in lump sum and must be inclusive of all incidental costs. No claim of reimbursable will be allowed.
- 2.4.2 Taxes: All applicable taxes must be included in the Financial Proposals **INCLUDING** Public Procurement Capacity Building Levy of 0.3% of lump sum amount.
- 2.5.2 Consultants must submit one (1) original and one (1 No.) additional copy of the technical and financial proposal.
- 2.5.3 The proposal submission address is:  
THE COUNTY SECRETARY  
COUNTY GOVERNMENT OF NYERI  
P. O BOX 1112-10100  
NYERI

And placed in the tender box located at the County Headquarter, Town hall ground floor, Located along Kenyatta road, Nyeri Town.

- 2.5.4 Proposals must be submitted no later than **9<sup>th</sup> June 2025 AT 11:00am**
- 2.6.1 The address to send information to the Client is:  
THE COUNTY SECRETARY  
COUNTY GOVERNMENT OF NYERI  
P. O BOX 1112-10100  
NYERI
- 2.7.1 The Evaluation Committee shall evaluate the proposals on the basis of their responsiveness to the Mandatory Requirements of the RFP and Terms of Reference, applying the evaluation criteria as follows:

**A. Preliminary Evaluation Criteria (Mandatory Requirements)**

**PRELIMINARY EVALUATION**

	<b><u>Mandatory documents</u></b>	<b><u>Must meet requirement yes/no</u></b>
1.	copy of Incorporation/Registration Certificate	
2.	copy of single business permit for year 2025	
3.	copy of KRA Pin certificate	
4.	Valid copy tax compliance certificate	
5.	Attach Dully filled, signed and stamped Certificate of independent proposal determination in the format provided.	
6.	Attach a Duly filled, Signed and Stamped Self Declaration Form (FORM SD1) in the format provided.	
7.	Attach a Duly filled, Signed and Stamped Self Declaration Form (FORM SD2) in the format provided.	
8.	Attach Duly filled, Signed and Stamped Declaration and Commitment to The Code of Ethics in the format provided.	
9.	Current copy of CR12 for limited firms issued within the last one year prior to the date of the tender advert. Or Copies of Identity Cards of Proprietors for Business Names.	
10.	Audited financial statements for the last 3 years (2022, 2023 & 2024) done by a registered accountant in good standing.	
11.	Certificate Of Independent Proposal Determination(attached)	
12.	Attach a bid bond of Ksh.340, 000.00/= from a bank and must remain valid for 170 days after the opening date of the tender. Note: A clear colored scanned copy must be uploaded into the IFMIS tender portal and the Original Hard Copy be delivered to the office of the Chief Officer Health at the County Commissioner Building.	
13.	Certified valid certificate of accreditation with ICT Authority under Category 4 for Systems & Application	
14.	Valid ODPC Registration as a Data Processor	

- i. **NB: The bidder must meet all the mandatory requirements to proceed to the technical evaluation stage.**



2 Assessment of adequacy of Tender's Proposal in connection with Procuring Entity's IT Requirements.

**B. TECHNICAL EVALUATION**

Firms that score 50 Marks and above at the technical evaluation stage will be proceed to the System Demonstration stage

No.	Item Description	Weight
1.	<p>Specific experience of the tenderer relevant to the provision of health Systems of a similar magnitude: [20 marks]</p> <ul style="list-style-type: none"> <li>• LSO/Contract of at least 2 projects (5 Marks Each)</li> <li>• Recommendation letter for at least 2 completed projects (5 Marks Each)</li> </ul>	20 marks
2	<p>Adequacy and quality of the proposed methodology, and work plan in responding to the Procuring Entity's Requirements: [10 marks]</p> <ul style="list-style-type: none"> <li>• Technical approach and methodology [5 marks]</li> <li>• Work plan [5 marks]</li> </ul> <p>Organization and staffing - At least 3 years' experience required, (20 Marks)</p> <ul style="list-style-type: none"> <li>• Experienced Project Manager with relevant certifications (5 Marks)</li> <li>• Experienced Lead Developer with relevant certifications (5 Marks)</li> <li>• Experience Database administrator with relevant certifications (5 Marks)</li> <li>• Experience Bank and mobile money integration expert (2.5 Marks)</li> <li>• Experienced UI/UX expert (2.5 Marks)</li> </ul> <p>[Notes to Consultant: <b>The Procuring</b> Entity will assess whether the proposed methodology is clear, responds to the TORs, work plan is realistic and implementable; overall team composition is balanced and has an appropriate skill mix; and the work plan has right input of Experts]</p>	30 marks
3	<p>Business fit of the proposed solution i.e. Detailed description of the bidder's compliance to the detailed system requirements</p> <ul style="list-style-type: none"> <li>• Functional Requirements (10 Marks)</li> <li>• Technical Requirements (5 Marks)</li> <li>• Overall System Requirements (5 Marks)</li> </ul>	20 marks

**Vendor Demonstration Evaluation Criteria (30 mks)**

**NB: The bidder will be required to demonstrate a Demo (exact system or similar system) of their proposed system, screenshots shall not be evaluated.**

S/N	Tender Requirement	Practical Demonstration	Maximum	Awarded Score
	<b>Demonstrate the Integrated Hospital Information Management System</b>	<b>The system look and feel and ease of use</b>	<b>5</b>	
	<b>Demonstrate abilities of the proposed system</b>	<ul style="list-style-type: none"> <li>• Patient Registration and Management.</li> <li>• Outpatient and Inpatient Management.</li> <li>• Pharmacy and Inventory Management.</li> <li>• Laboratory Information Management.</li> <li>• Radiology and Imaging Management.</li> <li>• Billing, Invoicing, auto receipting, auto reconciliation, and Payment Integration (including cashless options: Mobile Money, POS, Banks).</li> <li>• Human Resource and Staff Scheduling.</li> <li>• Mortuary Management.</li> <li>• Equipment and Asset Tracking.</li> <li>• Primary Health Care (PHC) Emphasis. Sync with Community Health Worker (CHW) mobile tools for home visit records and immunization follow-ups.</li> <li>• Financial Accounting and Reporting (PFM Act-compliant).</li> <li>• Integration with Revenue Management System</li> <li>• Integration with UHC Pilot Data Systems. Automated SHA claim preparation, submission, and reconciliation.</li> <li>• Direct integration with the</li> </ul>	<b>25</b>	

		<p>MoH UHC module for population health tracking.</p> <ul style="list-style-type: none"> <li>• Chronic Disease Focus. Patient follow-up workflows for long-term care (NCD management).</li> <li>• Automated flagging for repeat visits and annual screening compliance.</li> <li>• Integrated linkage to oncology, renal, diabetes, and hypertension programs.</li> </ul> <p>Specialized Reporting Requirements that monitor:</p> <ul style="list-style-type: none"> <li>▪ Maternal mortality ratio.</li> <li>▪ Child immunization coverage.</li> <li>▪ Cancer screening rates.</li> <li>▪ NCD patient retention and default rates.</li> <li>▪ Emergency services dispatch and response times.</li> </ul> <ul style="list-style-type: none"> <li>• Integration with county-contracted banks, mobile money platforms (e.g. M-PESA, Airtel Money), and POS systems, to minimize cash handling across facilities.</li> <li>• GIS-based disease mapping, essential for monitoring rural outbreaks or urban health inequities.</li> <li>• Telemedicine and Virtual Clinic Support</li> </ul>		
	Total		30	

**Tenderers who score 20 Marks and above will proceed to Financial evaluation.**

**C. FINANCIAL EVALUATION**

Bidders who have passed the technical evaluation will be evaluated financially.

**Illustration of Quality Based Cost (QCB) formula (for official use only- to be filled by procuring entity)**

Bidders	Technical Score			Financial Score					Total Score
	1		2			3		4	
	St	T%	StX T%	FM	F	Sf	P%	$\frac{Sf \times P\%}{P\%}$	S=2+4
								Bidder	score
							Winning bidder		
<b>KEY</b>	Description			<b>Key</b>					
<b>St</b>	Row Technical Score usually out of 100			<b>Sf</b>					
<b>T%</b>	Weight assigned to technical scores usually 80%			<b>P%</b>					
<b>FM</b>	Minimum of Financial Proposal			<b>S</b>					
<b>F</b>	Bidders Financial Proposal								

The responsive bidder shall be subjected to due diligence to confirm the eligibility and qualifications.

## SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS

{Notes to Consultant shown in brackets {} throughout Section 3 provide guidance to the Consultant to prepare the Technical Proposal; they should not appear on the Proposals to be submitted.}

### 1 FORMTECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: [Name and address of Procuring Entity]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your RFP dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope.

*{If the Consultant is a joint venture, insert the following: We are submitting our Proposal in association/as a consortium/as a joint venture with: {Insert a list with full name and the legal address of each member, and indicate the lead member}. We have attached a copy {insert: “of our letter of intent to form a joint venture” or, if a JV is already formed, “of the JV agreement”} signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.*

OR

*{If the Consultant's Proposal includes Sub-consultants, insert the following :} We are submitting our Proposal with the following firms as Sub-consultants: {insert a list with full name and address of each Sub-consultant.}*

We hereby declare that:

- a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Procuring Entity or maybe sanctioned by the PPRA.
- b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 12.1.
- c) We have no conflict of interest in accordance with ITC3.
- d) We meet the eligibility requirements as stated in ITC6, and we confirm our understanding of our obligation to abide by the Government's policy in regard to corrupt, fraudulent and prohibited practices as per ITC5.
- e) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, as well as laws against anti-competitive practices, including bid rigging in force in Kenya; we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption or anti-competitive practices.
- f) We confirm that we are not insolvent, in receivership, bankrupt or on the process of being of being wound up.
- g) The Consultant shall declare in the Technical Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid-rigging.
- h) We are not guilty of any serious violation of fair employment laws and practices. We undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against collusive and anti-competitive practices, including bid rigging. To this effect we have signed the “Certificate of Independent Proposal Determination” attached below. We also undertake to adhere by the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from\_\_\_\_(*specify website*) during the procurement process and the execution of any resulting contract.
- l) We, along with any of our sub-consultants are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA.

- (e) Except as stated in the ITC12 and Data Sheet, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause12 andITCClause29.3 and 29.4 may lead to the termination of Contract negotiations.
- (j) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (k) We understand that the Procuring Entity is not bound to accept any Proposal that it receives.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 32.2 of the Data Sheet.

We remain,

Yours sincerely,

Authorized Signature *{In full and initials}*: Name and Title of Signatory:  
Name of Consultant *(company's name or JV's name)*:  
Contact information *(phone and e-mail)*:

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}

## 2 CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION

I, the undersigned, in submitting the accompanying TECHNICAL PROPOSAL SUBMISSION FORM to the \_\_\_\_\_  
\_\_\_\_\_ [Name of Procuring Entity]

for: \_\_\_\_\_ [Name and number of tender] in response to the  
request for tenders made by: \_\_\_\_\_ [Name of Tenderer] do hereby make the  
following statements that I certify to be true and complete in every respect:

I certify, on behalf of \_\_\_\_\_ [Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
  - Has been requested to submit a Tender in response to this request for tenders;
  - could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
  - The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
  - The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs(5)(a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
  - prices;
  - methods, factors or formulas used to calculate prices;
  - the intention or decision to submit, or not to submit, a proposal; or
  - the submission of a proposal which does not meet the specifications of the request for proposals; except as specifically disclosed pursuant to paragraph(5)(b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this RFP relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph(5)(b) above;
8. The terms of the RFP have not been, and will not be, knowingly disclosed by the Consultant, directly or indirectly, to any competitor, prior to the date and time of the official proposed opening, or of the awarding of the Contract, which ever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph(5)(b) above.

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

[Name, title and signature of authorized agent of Consultant and Date]

### 3. APPENDIX TO FORM OF PROPOSAL ON FRAUD AND CORRUPTION CLAUSE (for information)

*(Appendix shall not be modified)*

#### **Purpose**

the government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

#### **Requirements**

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (*no.33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- (1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
- (2) A person referred to under sub section (1) who contravenes the provisions of that sub-section commits an offence;
- (3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
  - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
  - b) if a contract has already been entered into with the person, the contract shall be avoidable;
- (4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- (5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement—
  - i) Shall not take part in the procurement proceedings;
  - ii) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
  - iii) Shall not be a sub-contractor for the tender to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the sub-contractor appointed shall meet all the requirements of this Act.
- (6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- (7) If a person contravenes sub section (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer.
- (8) Incompliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
  - a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
    - i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
    - ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or

- recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - v) “obstructive practice” is:
    - i) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - ii) Acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers 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.
- c) Rejects a proposal or award<sup>1</sup> of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
  - d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
  - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
  - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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<sup>1</sup>For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

<sup>2</sup> Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the

*investigation/audit, and making copies there of as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.*

### 3. FORM TECH-2: CONSULTANT'S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the Consultant's organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant's Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.

#### A - Consultant's Organization

Provide here a brief description of the background and organization of your company, and-in case of a joint venture-of each member for this assignment.

#### B - Consultant's Experience

1. List only previous similar assignments successfully completed in the last [.....] years.
2. List only those assignments for which the Consultant was legally contracted by the Procuring Entity as a company or was one of the joint venture partners. Assignments completed by the Consultant's individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant's partners or sub-consultants, but can be claimed by the Experts themselves in their Curriculum Vitae (CV).
3. The Consultant shall substantiate their claimed experience by presenting copies of relevant documents such as the form of contract (not the whole contract), purchase order, service order, performance certificate, etc.; which shall be included in the proposal as part of *Form Tech 7 Mandatory Documentary Evidence*.

<b>Assignment name:</b>	<b>Approx. value of the contract [KES, US\$ etc.]:</b>
Country:	Duration of assignment (months):
Name of Procuring Entity:	Total N <sup>o</sup> of staff-months of the assignment:
Contact Address: Email:	Approx. value of the services provided by your firm under the contract:
Start date (month/year): Completion date:	N <sup>o</sup> of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g. <i>Lead Member in ABC JV, or Sole Consultant</i> ):	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Assignment:	
Description of actual services provided by your staff within the assignment:	
Name of Consulting Firm:	Name and Title of Signatory:

### 3 FORMTECH-3: COMMENT SAND SUGGESTIONS

Form TECH-3: The Consultant to provide comments and suggestions on the Terms of Reference, counterpart staff and facilities to be provided by the Procuring Entity that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Procuring Entity, including: administrative support, office space, local transportation, equipment, data, etc.

#### A - On the Terms of Reference

*{Improvements to the Terms of Reference, if any}*

#### B - On Counterpart Staff and Facilities

*{Include comments on counterpart staff and facilities to be provided by the Procuring Entity. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}*

### 4 FORMTECH-4: DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN

Form TECH-4: a description of the approach, methodology and work plan in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{The structure of your Technical Proposal:

a) Technical Approach and Methodology

b) Work Plan

c) Organization and Staffing}

- i) Technical Approach and Methodology. *{Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TOR sin here.}*
- ii) Work Plan. *{Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Procuring Entity), and tentative delivery dates of their ports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.}*
- iii) Organization and Staffing. *{Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff.}*

## 5. FORM TECH-5: WORK SCHEDULE AND PLANNING FOR DELIVERABLES

N°	Deliverables <sup>1</sup> (D-..)	Months												
		1	2	3	4	5	6	7	8	9	.....	n	TOTAL	
D-1	{e.g., Deliverable #1: Report A													
	1) data collection													
	2) drafting													
	3) inception report													
	4) incorporating comments													
	5) .....													
	6) delivery of final report to Procuring Entity}													
D-2	{e.g., Deliverable #2:.....}													
N														

- 1 List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Procuring Entity's approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in a form of a bar chart.
3. Include a legend, if necessary, to help read the chart.

## 6. FORMT ECH- 6A: TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Expert's input (in person/month) per each Deliverable (listed in TECH-5)										Total time-input (in Months)			
		Position		D-1		D-2		D-3	.....	D-...			Home	Field	Total
<b>KEY EXPERTS</b>															
K-1	{e.g., Mr. Abbbb}	[Team Leader]	[Home]	[2 month]	[1.0]	[1.0]									
			[Field]	[0.5 m]	[2.5]	[0]									
K-2															
K-3															
N															
										Subtotal					
<b>NON-KEY EXPERTS</b>															
N-1			[Home]												
			[Field]												
N-2															
N															
										Subtotal					
										Total					

1. For Key Experts, the input should be indicated individually for the same positions as required under the ITC Data Sheet 21.2

2. Months are counted from the start of the assignment/mobilization. One (1) month equals twenty-two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.

3. "Home" means work in the office in the expert's country of residence. "Field" work means work carried out in Kenya, or outside the normal residence of the Expert in Kenya or any other country outside the expert's country of residence.

 Full time input     
  Part time input

## 7. FORM TECH-6B: CURRICULUM VITAE (CV)

Position Title and No.	{e.g., K-1, Team Leader}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship	

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Procuring Entity's and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact Infor for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2011-present]	[e.g., Ministry of ....., advisor/consultant to...  For references: Tel...../e-mail.....; Mr. Bbbbbb, deputy manager]		

Membership in Professional Associations and Publications: \_\_\_\_\_

Language Skills (indicate only languages in which you can work): \_\_\_\_\_

Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant's Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}	

Expert's contact information : (e-mail.....)

phone.....) Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Procuring Entity, and/or sanctions by the PPRA.

Name of Expert \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
{day / month/year}

Name of authorized \_\_\_\_\_ Signature. \_\_\_\_\_ Date \_\_\_\_\_

Representative of the Consultant (the same who signs the Proposal

## 8. FORMTECH-7: MANDATORY SUPPORT DOCUMENTS

*[The Consultant shall use this form to submit all the required support documentary evidence as required in the RFP, especially the mandatory and eligibility criteria specified in the Data Sheet ITC 21.1]*

a) Certificate of Incorporation/Certificate of Registration

*{Insert here a copy of certificate of incorporation or registration}*

b) Tax Compliance Certificate

*{Consultant to insert a copy of the tax compliance certificate from Kenya Revenue Authority or similar body in the case of foreign consulting firms}*

c) Practice License or Certificate for the Firm

*{If required, Consultant to insert a copy of the firm's practice license or registration certificate issued by the professional body specified under Data Sheet ITC 21.1}*

d) Similar Consulting Assignments Experience

*{Consultant to insert here copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of similar assignments carried out by the firm. The assignments shall be the same as those provided under FORM TECH 2B}*

e) Academic Certificates

*{Consultant to insert copies of the required relevant academic certificates relevant to the assignment for all the key experts}*

f) Professional Certificates

*{Consultant to insert copies of professional certificates and relevant short-term trainings to demonstrate professional qualifications for all the key experts}*

g) Professional Membership of Key Experts

*{If applicable, Consultant to insert copies of professional membership certificate for its key experts}*

h) Certificate of Independent Proposal Determination

*(The Form is available on Tech FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM).*

# FORM TECH - 8: SELF-DECLARATION FORMS

## FORM SD1

### SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I, ....., of Post Office Box ..... being a resident of ..... in the Republic of ..... do hereby make a statement as follows: -

1. THAT I am the Company Secretary/Chief Executive/Managing Director/Principal Officer/Director of ..... (Insert name of the Company) who is a Bidder in respect of **Tender No.** ..... for ..... (Insert tender title/description) for ..... (*Insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

.....  
(Title) (Signature) (Date)

Bidder Official Stamp

## FORM SD2

### SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I, ..... of P. O. Box.....being a resident of ..... in the Republic of ..... do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of.....  
..... (*insert name of the Company*) who is a Bidder in respect of **Tender No.**  
..... for ..... (*insert tender title/description*)  
for ..... (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/ or agents of..... (*insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*name of the procuring entity*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....  
(Title)

.....  
(Signature)

.....  
(Date)

Bidder Official Stamp

## DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I ..... (person) on behalf of (*Name of the Business/ Company/Firm*) ..... declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act,2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya and my responsibilities under the Code.

I do here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address..... Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

**(Company Seal/ Rubber Stamp where applicable)**

Witness

Name .....

Sign.....

Date.....

**FORM TECH - 9: TENDER-SECURING DECLARATION FORM {r 46 and 155(2)}**

[The Bidder shall complete this Form in accordance with the instructions indicated]

Date:.....[insert date (as day, month and year) of Tender Submission]

Tender No.:.....[insert number of tendering process]

To:.....[insert complete name of Purchaser]

I/We, the undersigned, declare that:

- 1. I / We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
- 2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser or the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation (s) under the bid conditions, because we—(a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.
- 3. I / We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer (s), upon the earlier of:
  - a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
  - b) Thirty days after the expiration of our Tender.
- 4. I/We understand that if I am /we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: .....

Capacity / title (director or partner or sole proprietor, etc.) .....

Name: .....

Duly authorized to sign the bid for and on behalf of: .....[insert complete name of Tenderer]

Dated on ..... day of ..... [Insert date of signing]

Seal or stamp

## **SECTION 4. FINANCIAL PROPOSAL - STANDARD FORMS**

*{Notes to Consultant shown in brackets {...} provide guidance to the Consultant to prepare the Financial Proposals; they should not appear on the Financial Proposals to be submitted.}*

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in Section 2.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Breakdown of Remuneration

FIN-4 Reimbursable expenses

**FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM**  
**FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM**  
**(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)**

..... {Location, Date}  
To: ..... [Name and address of Procuring Entity]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for..... [Insert title of assignment] in accordance with your Request for Proposal dated..... [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of..... {Indicate the corresponding to the amount currency} {Insert amounts in words and figures}, including of all taxes in accordance with ITC24.2 in the Data Sheet. The estimated amount of local taxes is..... {Insert currency} {Insert amount in words and figures}.  
{Please note that all amounts shall be the same as in Form FIN-2}.

Our Financial Proposal shall be valid and remain binding upon us, subject to the modifications resulting from Contract negotiations, for the period of time specified in the ITC12.1 Datasheet.

We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address, Amount and Purpose of Commission of Agents, Currency or Gratuity

{If no payments are made or promised, add the following statement: “No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Proposal and Contract execution.”}

We understand you are not bound to accept any Proposal you receive. We remain,  
Yours sincerely,

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Signature..... (of Consultant's authorized representative) {In full and initials}: Full name: .....  
{insert full name of authorized representative} Title: ..... {insert title/ position of authorized representative}  
Name of Consultant..... (company's name or JV's name): Capacity: ..... {insert the person's capacity to sign for the Consultant} Physical Address: ..... {insert the authorized representative's address}  
Phone: ..... {insert the authorized representative's phone and fax number, if applicable} Email: .....  
..... {insert the authorized representative's email address}

{For a joint venture, either all members shall sign or only the lead member/consultant, in which case the power of attorney to sign on behalf of all members shall be attached}

## FORM FIN-2: SUMMARY OF COSTS

<b>Item</b>	<b>cost</b> {Consultant must state the proposed Costs in accordance with ITC 16.4 of the Data Sheet; delete columns which are not used}
	{Insert Local Currency, if used and/or required (16.4 Data Sheet)}
<b>Cost of the Financial Proposal</b>	<b>(indicate cost of implementation in each hospital)</b>
1. County Referral Hospital (PGH) level 5	
2. Karatina Level 4 Hospital	
3. Othaya Level 4 Hospital	
5. Ihururu Hospital Level 4	
6. MT. Kenya Hospital Level 4	
7. Mukurweini Hospital Level 4	
8. Narumoru Hospital Level 4	
<b>Including:</b>	
<b>(1) Remuneration</b> <i>(refer to 16.1 on financial proposal)</i>	
<b>(2) Reimbursables</b> <i>(refer to 16.1 on financial proposal)</i>	
<b>Subtotal [Remuneration + Reimbursables ]</b>	
<b>Taxes:</b>	
{insert type of tax. e.g., VAT or sales tax}	
{e.g., withholding tax on experts' remuneration}	
{insert type of tax} <b>INCLUDE Public Procurement Capacity Building Levy of 0.3% of total cost</b>	
<b>Total Taxes</b>	
<b>Total Cost of the Financial Proposal:</b> {Should match the amount in Form FIN-1}	

Item Number	Item Description	Quantity	Unit Price exclusive of all levies	Sub Total price of exclusive taxes
1	<b>HMIS installation and configuration</b>			
I	Design, Development, Supply, Installation And Commissioning of An Integrated Hospital and Claims Management Information System At Nyeri County	LOT		
ii	Data back up and migration at all Hospitals)	LOT		
2	<b>Implementation</b>			
I	Implementation ( <i>Training, setup etc...</i> )	LOT		
3	<b>Other charges</b>			
I	Any recurring charges (List the items and charge, example support services contract)	LOT		
	<b>SUB TOTAL COST</b>			
	<b>Vat 16%</b>			
	<b>TOTAL COST inclusive of taxes</b>			
	<b>Indicate the delivery period (in Weeks)</b>			

## FORM FIN-3A: BREAKDOWN OF REMUNERATION

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for the calculation of the Contract's ceiling amount; to calculate applicable taxes at contract negotiations; and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This Form shall not be used as a basis for payments under Lump-Sum contracts.

A. Remuneration _____								
No	Name	Position (as in TECH- 6)	Person-month Remuneration Rate	Time Input in Person/Month (from TECH-6)	{Currency # 1- as in FIN-2}	{Currency # 2- as in FIN-2}	{Currency# 3- as in FIN-2}	{Local Currency- as in FIN- 2}
Key Experts								
K-1			[Home]					
			[Field]					
K-2								
Non-Key Experts								
N-1			[Home]					
N-2			[Field]					
Total Costs								



**FORM FIN-4 BREAKDOWN OF REIMBURSABLE**

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for calculation of the Contract ceiling amount, to calculate applicable taxes at contract negotiations and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This form shall not be used as a basis for payments under Lump-Sum contracts. This form shall be filled for Time-Based Contracts to form the basis of contract negotiations.

B. Reimbursable Expenses _____								
N°	Type of Reimbursable Expenses	Unit	Unit Cost	Quantity	{Currency # 1- as in FIN-2}	{Currency # 2- as in FIN-2}	{Currency# 3- as in FIN-2}	{Local Currency- as in FIN-2}
	{e.g., Per diem	{Day}						
	{e.g., International flights}	{Ticket}						
	{e.g., In/out airport transportation}	{Trip}						
	{e.g., Communication costs between Insert place and Insert place}							
	{ e.g., reproduction of							
	{e.g., Office rent}							
	.....							
	{Training of the Procuring Entity’s personnel – if required in TOR}							
Total Costs								

**Legend:**  
 “Per diem allowance” is paid for each night the expert is required by the Contract to be away from his/her usual place of residence. Procuring Entity can set up a ceiling.



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## **PART 2 – PROCURING ENTITY'S REQUIREMENTS**

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## SECTION V - REQUIREMENTS OF THE INFORMATION SYSTEM

### (INCLUDING TECHNICAL REQUIREMENTS, IMPLEMENTATION SCHEDULE, SYSTEM INVENTORY TABLES, BACKGROUND AND INFORMATIONAL MATERIALS)

#### 1. Technical Requirements

##### Notes on preparing the Technical Requirements

The Technical Requirements—in combination with the Implementation Schedule and the supporting System Inventory Tables—state the Supplier's obligations to design, supply and install the Information System and, as such, should be “voiced” to the Supplier (i.e., “The System MUST...” “The Supplier MUST...”). They form the contractual basis for the Procuring Entity-Supplier interactions on technical matters (in combination with refinements introduced through the Supplier's tender, the Project Plan, and any Change Orders).

The Technical Requirements also must include all the technical details that Tenderers will need to prepare realistic, responsive, and competitive tenders (i.e., covering all their obligations under the Contract if so awarded). However, matters addressed to the Tenderer's (i.e., before contract award) generally belong in the Format of the Technical Tender Section 8 of Part 1.

Often Technical Requirements are based on either consultant's project proposals (voiced to the Procuring Entity's management) or tenders from previous procurements (voiced to the Procuring Entity). In both instances, care needs to be taken in converting these materials into Technical Requirements (voiced to the Supplier). Otherwise, substantial ambiguity will be introduced in to the Technical Requirements from, among other things, “aspirational” text suggesting the benefits (to the Procuring Entity) which are often not obligations that the Supplier can deliver on or be held to deliver upon. Tender based language will often include “sales pitches”, such as “expandability up to sixteen processors”, whereas the Technical Requirements need to be stated as threshold values to be cleared by the Supplier (e.g., “expandability to at least sixteen processors”).

Any sustainable procurement technical requirements shall be clearly specified. The sustainable procurement requirements may be specified to enable evaluation of such a requirement on a pass/ fail basis and/orated criterion (point system), as appropriate.

To the greatest extent possible, the Technical Requirements should be expressed in terms of the Procuring Entity's business activities, rather than a technological design. This leaves it up to the market to determine what specific Information Technologies can best satisfy these business needs. This is particularly relevant where the Information System will embody complex business logic in the form of application software.

Even in the case of a relatively straight-forward Information System, where the business need scan be clearly linked to technological and methodological requirements known in advance of any tendering, the requirements must still be vendor-neutral and admit the widest possible range of technical responses.

Accordingly, references to brand names, catalog numbers, or other details that limit the source of any item or component to a specific manufacturer should be avoided. Where such references are unavoidable, the words “or substantially equivalent” should be added to permit Tenderers to tender equivalent or superior technologies. (The Procuring Entity will need to be ready to indicate how this equivalence will be assessed.) Only in the most exceptional circumstances may Tenderers be required to offer brand-name items and the equivalency clause be omitted. Such brand-name components are the absolute fewest possible and each component has been explicitly identified in the Tender Data Sheet for ITT 16.3.

Similarly, where national standards or codes of practice are specified, the Procuring Entity should include a statement that other national or international standards “that are substantially equivalent” will also be acceptable.

To help ensure comparable tenders and ease Contract execution, the Procuring Entity's requirements must be stated as clearly as possible, with minimum room for differing interpretations. Thus, wherever possible, technical requirements should include definitive characteristics and quantifiable measures. If technical characteristics in a specific range, or above or below specific thresholds, are required, then these should be clearly specified. For example, the expandability of a server should be stated as “no less than four processors.” Technical specifications that state only “four processors” create unnecessary uncertainty for Tenderers regarding whether or not, for example, a server that could be expanded up to six process or boards would be technically responsive.

Quantitative technical specifications must, however, be employed with care. They can dictate technical architectures and, thus, be unnecessarily restrictive. For example, a quantitative requirement for the minimum width of the data path in a processor may be unnecessarily restrictive. Instead, a specification of a required level of

standard performance benchmark test is more appropriate, allowing different technical approaches to achieving the Procuring Entity's functional and performance objectives. In general, the Procuring Entity should try to use widely accepted direct measures of performance and functionality whenever possible and carefully review specifications for those that might dictate technical architectures.

It is important that the Technical Requirements clearly identify which are mandatory features (for which a tender's nonconformance might require rejection for non-responsiveness) and which are preferable features that can be included or excluded from a tender at the Tenderer's option. To enhance the clarity of the specifications, Procuring Entities are advised to use the word "MUST" (in bold capitals) in sentences describing mandatory requirements. A clear requirement numbering scheme is also essential.

The following presents a sample outline format for the Technical Requirements Section. This can and should be adapted to meet the Procuring Entity's needs for the specific Information System to be procured.

#### A. Acronyms Used in the Technical Requirements

##### i) Acronym Table

**Note:** Compile a table of organizational and technical acronyms used in the Requirements. This can be done, for example, by extending the following table.

	<b>Term</b>	<b>Explanation</b>
	Bps	bits per second
	Cps	characters per second
	DBMS	Database Management System
	DOS	Disk Operating System
	Dpi	dots per inch
	Ethernet	IEEE 802.3 Standard LAN protocol
	GB	Gigabyte
	Hz	Hertz (cycles per second)
	IEEE	Institute of Electrical and Electronics Engineers
	ISO	International Standards Organization
	KB	Kilobyte
	kVA	Kilovolt ampere
	LAN	Local area network
	Lpi	lines per inch
	Lpm	lines per minute
	MB	Megabyte
	MTBF	Mean time between failures
	NIC	Network interface card
	NOS	Network operating system
	ODBC	Open Database Connectivity
	OLE	Object Linking and Embedding
	OS	Operating system
	PCL	Printer Command Language
	Ppm	pages per minute
	PS	PostScript -- Adobe page description language

	<b>Term</b>	<b>Explanation</b>
	RAID	Redundant array of inexpensive disks
	RAM	Random access memory
	RISC	Reduced instruction-set computer
	SCSI	Small Computer System Interface
	SNMP	Simple Network Management Protocol
	SQL	Structured Query Language
	TCP/IP	Transmission Control Protocol / Internet Protocol
	V	Volt
	WLAN	Wireless LAN

## **Terms of Reference**

### **Automation of Health Services through Implementation of an Integrated Health Management Information System for County Health Facilities**

#### **Component: Software**

2025

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## **I. Introduction and Background:**

The County Government of Nyeri is in the process of automating health services through implementation of an Integrated Health Management Information System (*iHMIS*).

Currently, different facilities are running different disintegrated systems partly serving several service points/units with most of them being non-web-based while most of the operations are done manually. There is therefore need to streamline processes, enhance data accuracy while improving the overall health care service delivery.

## **II. Objectives:**

The key objective of automating the health services is to improve efficiency in provision of health care. Specific objectives include, but not limited to the following:

- a) Streamlining all processes and enhance routine administration of health services
- b) Automate health commodities (pharms, non-pharms and other essential commodities).
- c) Accountability of all revenues generated from services given to clients/patients
- d) Implement electronic health records for comprehensive and secure accessibility
- e) Compliance with statutory standards n health regulations and data protection.

## **III. Scope of Work:**

This document serves as a term of reference (ToR) for the software component which is intended to be used across all the facilities in the county. This includes, levels 5, 4, 3 and 2, of 241 facilities and 240 level1 (community health units).

The implementation will be done in Nyeri County Referral Hospital, Ihururu level 4, Othaya level 4, Mukurweini level 4, Karatina Level 4, Mt Kenya level 4 and Naromoru Level 4 hospitals.

The system is intended to integrate all health services across all facilities under one platform while providing visibility of all facilities in one dashboard.

This will be an end-to-end secure web-based solution automating all service points/units with key focus on patient care, health commodities and revenue management among others. The scope also includes integration with existing systems and technologies.

The selected vendor will design, supply, customize, install, commission, train, and support a comprehensive HMIS that:

- Supports patient registration, billing, laboratory, pharmacy, in-patient and outpatient management.
- Integrates with national and county health systems, including DHIS2, IFMIS, and Health Insurance platforms (SHA and others).
- Automates compliance reporting as per Ministry of Health (MoH) statutory formats.
- Embeds financial controls in alignment with the Public Finance Management Act, 2012.
- Is interoperable with third-party systems using standardized APIs (e.g., HL7, FHIR, SNOMED).
- Provides real-time dashboards and audit trails for all transactions.
- Link with other medical Facilities in the County

Additionally, the vendor will be expected to clean up the data in the various legacy systems, migrate the data to the new system.

#### IV. System Requirements

These are the technical specifications of the system/software and modules as indicated below:

- a) Secure, web-based and centralized database with both web and mobile access channels and can be used for light end-user devices including tablet PCs.
- b) Provision for secure real-time automatic backups (both on-site and off-site) and automatic data redundancy checks.
- c) Have an optimal (99.5%) uptime.
- d) Provision for integration with ECHIS and other third party systems
- e) Provision for multiple payment options across different providers including mobile money platforms, banks, e-payments options and agents and have automated receipting and reconciliation functions.
- f) Flexible, scalable, parameter-driven and customizable solution to meet the unique requirements County Government of Nyeri.
- g) Provide Role based system access and permissions for improved security.
- h) Provision of system work-flows with enforced maker-checkers and segregation of responsibilities.
- i) Provision of reports and dashboards for real-time monitoring and seamless customization of reports according to county needs.
- j) Have a complete auditing capability and audit trails/event views.
- k) Compliance with existing laws and regulations including MoH, CBK, DHA and CAK regulations.
- l) Compliance with international globally accepted standards for systems security and payments.
- m) Online help desk with remote support through email and telephone and provide for a support ticketing system.
- n) The service provider will station support staff onsite during the implementation period.
- o) Compliance with approved SLA.
- p) Provision for updates, upgrade and fixes.
- q) Provide for periodic quality checks and monitoring & evaluation.

SERVICE	TECHNICAL SPECIFICATIONS AND STANDARDS	COMPLIED YES/NO	COMMENTS
	<b>Patient Registration/Health records module</b>		

<p>Master Patient Index</p>	<p>Provide multiple search criteria including:</p> <ul style="list-style-type: none"> <li>Name</li> <li>Partial Name</li> <li>Maiden Name</li> <li>Alias</li> <li>National ID/PPNo Number</li> <li>Medical Record Number</li> <li>Healthcare policy number</li> <li>Ability to specify MPI search levels for your organization.</li> <li>Identify potential duplicate records through date of birth or ID number, etc. Automatically update MPI when new information entered.</li> <li>Capability to view patient's address and phone number before selecting patient Information already captured on a patient default in when patient selected.</li> <li>Provide reports identifying duplicate ID numbers, etc.</li> <li>Display critical care indicators when selecting a patient- such as patient's allergies.</li> <li>Information is shared from previous visits at other facilities throughout the enterprise (County/Country*)- *Future option Automatically assign a medical record number for patients not in the system</li> <li>Provides both a facility-specific medical record number and an enterprise number Ability to merge duplicate medical records Automatically assigns new account number for each visit.</li> </ul>		
	<ul style="list-style-type: none"> <li>Capture patient personal information, contact details, and insurance information.</li> <li>Verify patient insurance coverage and eligibility.</li> <li>Facilitate patient check-in and assign queue numbers for streamlined patient flow.</li> <li>Assign a unique patient identifier that is easier to remember i.e. ID number, Birth certificate number.</li> <li>Enable the uploading of patient photos and relevant documents, such as insurance cards and identification.</li> <li>Notify healthcare providers about patient arrivals.</li> <li>Seamlessly integrate with EHR systems to share patient information with other healthcare providers.</li> <li>Create and maintain electronic medical records for patients that can be accessed in all hospitals in the county.</li> <li>Registration module that is able to capture biodata and issue a unique patient identifier that is fast with a waiting time of less than 5 minutes in the registration point.</li> <li>Incorporation of all MOH registers and reporting tools</li> <li>Visualization dashboards and able to query non-standard reports (-ad hoc reports using queries)</li> <li>Shared health records (SHA)</li> <li>System with clear workflows for all the specialized clinics</li> <li>System that has a capacity to issue rights on a role-based model capacity</li> <li>Interoperability with other hospital systems</li> <li>System with a queuing system</li> </ul>		

	<p>Digital Health Act (2023).  System should have a valid compliance certificate with Digital Health Agency</p> <p>Compliance with information security privacy and confidentiality standards provided in Kenya health data governance framework</p> <p>Has an e-Claim feature</p> <p>Automatically incorporates current patient demographic data from previous visits</p> <p>Imports data from hospital system</p> <p>Ability to run short registration form, with user-defined fields.</p> <p>Includes patient reception routine to enter patient into the system with minimal data fields</p> <p>Provide multiple search methods to identify patient, including:</p> <ul style="list-style-type: none"> <li>Names</li> <li>Partial name</li> <li>National ID number</li> <li>Medical Record Number</li> <li>Maiden Name</li> <li>Alias</li> </ul> <p>Soundex Search Ability to view patient picture online to ensure proper identification</p> <p>Ability to enter patient as Peter Maina Ability to merge Peter Maina with actual account number once patient identified Ability to capture chief complaint upon check in</p> <p>Ability to identify patient status (urgent, critical, non-critical)</p> <p>Ability to enter minimal patient data before patient arrives (ambulance) Ability to assign room prior to patient arrival</p> <p>Provide triage documentation</p> <p>Ability to capture ER doctor</p> <p>Ability to generate plans of care based on patient’s chief complaint</p> <p>Documentation on patient’s vital signs Ability to review patient allergies and current medications</p> <p>Ability to view patient history</p>		
Patient Triage	<b>Triage and Urgency Assessment</b>		
	<p>Capture and maintain patient demographic information. Record relevant medical history.</p> <p>Implement evidence-based triage algorithms and protocols.</p> <p>Allow customization of algorithms to match facility-specific needs</p> <p>Define and assign triage categories (e.g., critical, urgent, non-urgent) based on the severity of patients' conditions.</p> <p>Provide guidance to healthcare providers in assessing patients and assigning triage levels.</p> <p>Create electronic triage records that include detailed patient assessments and assigned triage categories.</p>		

	<p>Facilitate communication among healthcare team members regarding patients' triage levels and conditions.</p> <p>Manage patient flow in the triage area and coordinate their movement to appropriate care areas.</p> <p>Generate reports on triage category distribution, trends, and resource allocation.</p> <p>Implement a triage module for assessing the urgency of patients' conditions.</p> <p>Support immediate redirection of patients with severe or life-threatening conditions to specialized care areas.</p>		
	<b>Outpatient: Consultation and Diagnosis</b>		
	<p>Facilitate appointments with general practitioners and specialists.</p> <p>Record and maintain medical history, diagnostic tests, and treatment plans.</p> <p>Implement an appointment scheduling module for booking patient consultations.</p> <p>Seamlessly integrate with EHR systems to access and update patient medical records.</p> <p>Support comprehensive clinical assessments and examinations, including medical history reviews, physical examinations, and patient symptoms.</p> <p>Enable healthcare providers to order diagnostic tests, laboratory work, and imaging studies.</p> <p>Ensure seamless transmission of orders to the respective departments.</p> <p>Offer clinical decision support tools to assist healthcare providers in diagnosis and treatment planning.</p> <p>Support telemedicine for remote consultations, including video conferencing and secure communication.</p> <p>Facilitate medication prescription and management, including e-prescribing and dosage verification.</p> <p>Manage referrals to specialists and consultations with other healthcare providers.</p> <p>Ensure detailed and standardized consultation notes for reference.</p> <p>Integrate with billing systems to facilitate billing for consultations and diagnostic services.</p>		
	<b>Inpatient Care</b>		
	<p>Capture and maintain patient demographic information, medical history, insurance details, and next of kin.</p> <p>Streamline the admission process with electronic forms and checklists.</p> <p>Manage bed availability, allocation, and room assignments.</p> <p>Seamlessly integrate with EHR systems to access and update patient medical records.</p> <p>Support multidisciplinary care planning, including physician orders, nursing care plans, and allied health assessments.</p>		

	<p>Facilitate safe medication administration with electronic medication orders, barcode scanning, and dosage verification.</p> <p>Offer clinical decision support tools to assist healthcare providers in making evidence-based decisions.</p> <p>Implement a nursing documentation module to record care activities, observations, and patient responses.</p> <p>Implement robust security measures to protect patient data and ensure compliance with healthcare data privacy regulations.</p> <p>Integrate with billing and revenue cycle management systems to facilitate billing for inpatient services.</p> <p>Verify insurance coverage and process claims.</p> <p>Support integration with other medical information systems.</p> <p>Dietary needs</p>		
<b>Emergency and Critical Care</b>			
	<p>Implement a triage system to determine the urgency of patients' conditions.</p> <p>Facilitate quick and accurate patient assessment, including vital sign monitoring and medical history review.</p> <p>Support the continuous tracking of vital signs, cardiac monitoring, and ventilator parameters.</p> <p>Enable the administration of life-saving interventions, such as cardiopulmonary resuscitation (CPR), defibrillation, and rapid medication administration.</p> <p>Support emergency procedures for trauma, cardiac arrest, and respiratory distress.</p> <p>Facilitate medication administration with safety checks for accurate dosing.</p> <p>Integrate with medical devices such as ventilators, cardiac monitors, and infusion pumps to receive real-time data.</p> <p>Ensure alerts for equipment malfunctions and patient condition changes.</p> <p>Seamlessly integrate with EHR systems to access and update patient medical records.</p> <p>Support efficient data exchange with other healthcare providers.</p> <p>Allow for rapid access to diagnostic imaging, laboratory results, and diagnostic tests.</p> <p>Support image viewing and interpretation within the system</p> <p>Implement a system for patient transfer between different care areas (e.g., emergency room to intensive care).</p>		

	<p>Facilitate efficient handoffs and communication between care teams.</p> <p>Generate comprehensive reports on patient conditions, interventions, and outcomes.</p> <p>Integration with emergency medical service (EMS) dispatch systems.</p>		
<b>Gender-Based Violence Unit</b>			
	<p>Capture and maintain records, including demographic details and case history.</p> <p>Create individualized cases for patients to track their progress and care plans.</p> <p>Develop a system for conducting assessments of patients who have experienced gender- based violence.</p> <p>Allow for secure documentation of patient interviews and findings.</p> <p>Implement a referral management module to connect patients with relevant support services and agencies.</p> <p>Coordinate with external organizations, such as law enforcement, shelters, and legal aid providers.</p> <p>Enable safety planning and risk assessment for patients in immediate danger.</p> <p>Support the creation of safety plans that include information on seeking help and resources.</p> <p>Enable the secure release of patient information to authorized entities.</p> <p>Ensure easy access to patient records for healthcare providers</p> <p>Implement an appointment scheduling module for booking eye exams and consultations.</p> <p>Allow for online and in-person appointment booking.</p> <p>Integrate with EHR systems to access patient medical records and update them with eye exam results.</p> <p>Ensure seamless sharing of patient information with other healthcare providers.</p> <p>Support a wide range of clinical tests and assessments for eye health, including visual acuity tests, refraction tests, tonometry, and imaging studies (e.g., fundus photography).</p> <p>Provide tools for documenting findings and results.</p> <p>Enable the prescription and management of eyeglasses, contact lenses, and vision correction surgeries (e.g., LASIK).</p> <p>Track prescription history and vision correction recommendations.</p>		

	<p>If offering surgical services (e.g., cataract surgery), include a module for surgical planning, scheduling, and post-operative care.</p> <p>Manage surgery dates, consent forms, and patient follow-up.</p> <p>Generate comprehensive reports on eye exams and test results.</p> <p>Support the storage and retrieval of eye imaging studies (e.g., retinal scans, optical coherence tomography).</p> <p>Manage the inventory of eyeglass frames, contact lenses, and optical accessories.</p> <p>Integrate with billing and revenue management systems to facilitate billing for eye exams, procedures, and eyeglass/contact lens orders.</p> <p>Verify insurance coverage and process claims.</p> <p>Support integration with other medical information systems.</p>		
<b>Laboratory Services</b>			
	<p>Enable the scheduling of tests for patients. Integrated to the existing Lab Information systems.</p> <p>assign queue numbers for streamlined patient flow. Implement a system for tracking and labeling patient samples.</p> <p>Ensure accurate and traceable sample identification. Support a variety of diagnostic tests, including blood tests, urinalysis, imaging studies (e.g., X-rays, CT scans, MRIs), and more.</p> <p>Integrate with various laboratory instruments and equipment for test processing. Generate and deliver test results electronically to healthcare providers.</p> <p>Include clear and comprehensive reports, graphs, and charts. Seamlessly integrate with EHR systems to access patient medical records and update them with test</p>		
<b>Operating Room (OR) Management</b>			
	<p>Create a scheduling module for booking surgical procedures. Allow for flexible scheduling with the ability to adjust times and dates as needed.</p> <p>Capture and maintain patient information related to scheduled surgeries, including demographics, medical history, and consent forms. Ensure secure storage and easy retrieval of patient records.</p> <p>Manage the allocation of surgical instruments, medical equipment, and operating room resources.</p>		

	<p>Implement alerts for equipment maintenance and sterilization.</p> <p>Assign surgical teams and support staff to specific surgeries.</p> <p>Facilitate communication and coordination among OR staff.</p> <p>Enable the documentation of surgical procedures, including pre-operative checklists, intra- operative notes, and post-operative records.</p> <p>Integrate with EHR systems to access and update patient medical records.</p> <p>Ensure seamless sharing of patient information among care providers.</p> <p>Generate reports on surgical schedules, procedure outcomes, and resource utilization.</p>		
<b>Palliative Care</b>			
	<p>Develop an interface for comprehensive patient assessments to evaluate physical, psychological, and spiritual needs.</p> <p>Capture patient preferences and goals for care.</p> <p>Enable the creation and management of individualized palliative care plans.</p> <p>Facilitate coordination among the palliative care team, including regular team meetings and updates.</p> <p>Support medication administration for symptom control</p> <p>Include spiritual care and support for patients who desire it.</p> <p>Integrate with the EHR system to access and update patient medical records.</p> <p>Ensure seamless sharing of patient information among care providers.</p> <p>Facilitate coordination and transitions of care with hospice services when appropriate.</p> <p>Generate reports on patient assessments, care plans, and outcomes.</p> <p>Capturing outpatient details.</p>		
<b>Medical Social Worker Services</b>			
<b>Psychological Counselling: Drop-In Center</b>			
	<p>Capture patient information, including name, contact details, and reason for the visit.</p> <p>Implement a queue management system to minimize patient wait times.</p> <p>Display real-time waitlist information for patients.</p> <p>Integrate with EHR systems to access and update patient medical records.</p> <p>Ensure the recording of patient visits, symptoms, and provided services.</p>		

	<p>Include clinical decision support tools to assist healthcare providers in diagnosing and treating minor ailments.</p> <p>Provide a system for handling minor ailments and general health concerns without prior appointments.</p> <p>Generate reports on patient visits, common ailments, and services provided.</p> <p>Implement security measures to protect patient data.</p> <p>Ensure compliance with healthcare data privacy regulations.</p> <p>Enable the secure release of patient information to authorized individuals or entities.</p>		
<b>Pharmacy Services</b>			
	<p>Handle prescription medication dispensing.</p> <p>assign queue numbers for streamlined patient flow.</p> <p>Support e-prescribing to reduce errors and improve efficiency</p> <p>Include counseling, medication dosage verification, and safety compliance.</p> <p>Integrate with EHR systems to access patient medical records and ensure medication history accuracy.</p> <p>Support two-way communication to update EHRs with dispensed medications</p> <p>Support prescription label printing.</p> <p>Provide detailed reports on medication usage, inventory levels, and prescription history.</p> <p>Implement robust security measures to protect sensitive patient data and pharmacy operations.</p> <p>Maintain audit trails of all pharmacy-related transactions.</p> <p>Support centralized pharmacy management for multiple healthcare facilities.</p> <p>Allow individual facilities to manage their pharmacy operations within the larger system.</p> <p>Ensure the system can scale to accommodate the needs of growing healthcare facilities.</p> <p>Allow for communication between the prescriber and the pharmacy to seek clarification and perhaps interventions before the patient pays.</p> <p>Access to the doctor's notes/patient file and show the diagnosis on the prescription generated from the pharmacy.</p> <p>Allow refill of drugs for chronic conditions directly from pharmacy without having to go through the registration process such that the pharmacy can charge for the drugs and the patient pays.</p>		

	<p>Show movement of drugs in the stock control cards per patient at the main pharmacy with stock balances to ensure end to end visibility.</p> <p>Restrict prescription of drugs for chronic conditions to one month but allow for refill as per the TCA.</p> <p>Receive stocks into the main store and issue to the main pharmacy and other service delivery points with clear movement on the stock control card at the main store.</p> <p>Allow for positive and negative adjustments of stocks for drugs received or issued to other facilities.</p> <p>Give notifications for medicines that are running low in stocks and calculate re-order levels.</p> <p>Allow for retrieval of patients' prescriptions for all previous visits. A report of all prescriptions processed daily, weekly, monthly, quarterly and yearly.</p> <p>A report of drugs dispensed per category (Antibiotics, analgesics, etc.)-daily, weekly, monthly, quarterly and yearly.</p> <p>Restrict prescription of particular drugs especially antibiotics in watch and reserve classes to a particular level of cadre.</p> <p>Printing of prescriptions for drugs that are out of stock.</p> <p>Different prices for corporate and cash paying clients in the system.</p> <p>Expiry tracking for all Drugs-Generate reports for short expiry medicines.</p> <p>View the revenue generated from the department periodically.</p> <p>Allow the prescriber to see the quantities of drugs available as they prescribe.</p> <p>Key in special instructions during dispensing and allow automatic generation of the drug labels.</p> <p>Generate a report of the daily staff workload.</p> <p>Different access rights for various levels in the department e.g. students vs. qualified staff.</p> <p>Generate FCDRR and FMAPS reports for medicine consumption and patient numbers.</p> <p>Drug interaction alerts to prevent medication conflicts</p> <p>Support integration with financial and billing systems to facilitate billing for medication services and verify insurance coverage.</p>		
	<p><b>Inventory Management</b></p>		
	<p>Manage hospital supplies, equipment, and inventory.</p> <p>Ensure the availability of essential medical resources.</p>		

	<p>Implement a real-time tracking system to monitor stock levels continuously.</p> <p>Record item descriptions, quantities, expiration dates, and location information</p> <p>Set up automatic alerts and notifications for low stock levels or expiring items.</p> <p>Document the receipt of inventory items upon delivery.</p> <p>Ensure traceability for recalls and quality control</p> <p>Allow individual facilities to manage their inventory within the larger system</p> <p>Generate reports for financial analysis and cost control</p> <p>Provide detailed reports on inventory levels, usage, and costs.</p> <p>Maintain an audit trail of all inventory-related transactions.</p> <p>Highlight items nearing expiration and facilitate their prompt use or disposal</p> <p>Ensure the system can scale to accommodate the needs of growing healthcare facilities</p> <p>Support the addition of new inventory items and categories.</p>		
<b>Medical Records Management</b>			
	<p>Enable the scanning and digital uploading of paper documents, test results, and medical images.</p> <p>Seamlessly integrate with EHR systems to access and update patient medical records.</p> <p>Ensure data consistency and accessibility across the healthcare facility.</p> <p>Implement efficient data indexing to facilitate rapid retrieval of patient records.</p> <p>Support powerful search functions to locate specific records quickly.</p> <p>Maintain version control for patient records, documenting changes and updates.</p> <p>Create audit trails to track who accessed and modified patient records and when.</p> <p>Facilitate the archiving and long-term retention of patient records in compliance with legal and regulatory requirements.</p> <p>Implement an automated record purging system when records reach their retention period.</p> <p>Generate reports on patient records, usage statistics, and data access patterns.</p> <p>Utilize analytics to optimize record management processes.</p> <p>Enable the secure release of patient information to authorized individuals or entities.</p> <p>Maintain detailed electronic medical records for each patient, including medical history, diagnoses, treatments, and progress.</p>		

	Ensure secure and accurate record-keeping.		
	<b>Gynecology Ward - Inpatient Ward</b>		
	<p>Capture and maintain patient demographics, medical history, and contact details.</p> <p>Record and track obstetric and gynecologic history.</p> <p>Manage patient appointments and scheduling for consultations and procedures.</p> <p>Provide a scheduling system for appointments with gynecologists, obstetricians, and other relevant staff.</p> <p>Support for tracking and managing appointments, including rescheduling and cancellations.</p> <p>Integration with EHR to store and access patients' medical records, including lab results, diagnostic images, and historical data.</p> <p>Maintain records related to pregnancy, including trimester-specific details, ultrasounds, and prenatal care.</p> <p>Manage gynecological history, including menstrual history, pap smear results, and relevant procedures.</p> <p>Generate invoices for services provided, and support billing processes, including insurance claims.</p> <p>Track and manage medical supplies and equipment used in gynecology procedures and examinations.</p> <p>Maintain medication records, including prescriptions and dispensing details.</p> <p>Facilitate communication between healthcare providers and patients through secure messaging and notifications.</p> <p>Support interoperability with other modules of the ERP.</p> <p>Consider integration with telehealth platforms for remote consultations and follow-ups.</p>		
	<b>Mother-Child Health Clinic</b>		
	<p>Capture and maintain comprehensive patient demographics, medical history, and contact details for both mothers and children.</p> <p>Link mother and child records to establish relationships and track family medical histories.</p> <p>Provide scheduling functionality for maternal and pediatric appointments, including prenatal care, well-child checkups, and vaccinations.</p> <p>Integration with EHR to store and access patients' medical records, including pregnancy-related data, birth records, and pediatric health information.</p>		

	<p>Maintain records related to pregnancy, childbirth, neonatal care, and newborn health, including prenatal checkups, ultrasounds, and neonatal vitals.</p> <p>Record and monitor child growth and development milestones, including height, weight, and developmental assessments.</p> <p>Generate invoices for services provided, including maternity care, neonatal care, and pediatric services.</p> <p>Support billing processes, including insurance claims for both maternal and pediatric services.</p> <p>Track and manage medical supplies and equipment used in maternal and pediatric healthcare.</p> <p>Maintain medication records for mothers and children, including prescriptions and dispensing details.</p> <p>Facilitate communication between healthcare providers and patients through secure messaging and notifications.</p> <p>Support communication between pediatricians, obstetricians, and other specialists involved in mother-child healthcare.</p> <p>Generate reports on maternal and child health statistics, department performance, and financials.</p> <p>Provide data analytics tools to monitor trends and improve decision-making in maternal and pediatric care.</p> <p>Support interoperability with other modules of the ERP</p> <p>Provide access to educational materials for expectant mothers and parents on child healthcare and parenting.</p>		
<b>Renal Section</b>			
	<p>Capture and maintain comprehensive patient demographics, medical history, and contact details.</p> <p>Record and monitor renal-specific information, including kidney function, dialysis details, and transplantation history.</p> <p>Capture and maintain comprehensive patient demographics, medical history, and contact details.</p> <p>Record and monitor renal-specific information, including kidney function, dialysis details, and transplantation history.</p> <p>Integration with EHR to store and access patients' medical records, including laboratory results, diagnostic images, and historical renal health data.</p>		

	<p>Maintain records of dialysis sessions, including scheduling, treatment parameters, and dialysis-related complications.</p> <p>Record and track kidney transplant history, including donor information, transplant surgeries, and post-transplant care.</p> <p>Maintain medication records for renal patients, including prescriptions, dosages, and dispensing details.</p> <p>Generate invoices for renal services, including dialysis, transplantation, and medication.</p> <p>Support billing processes, including insurance claims for renal services.</p> <p>Track and manage medical supplies and equipment used in renal care, such as dialysis machines, catheters, and immunosuppressant medications.</p> <p>Facilitate communication between healthcare providers and renal patients through secure messaging and notifications.</p> <p>Generate reports on renal patient statistics, department performance, and financials.</p> <p>Provide data analytics tools to monitor trends and improve decision-making in renal care.</p> <p>Support interoperability with other modules of the ERP</p> <p>Consider integration with telemedicine platforms to enable remote consultations for renal patients, and remote monitoring solutions for critical parameters.</p>		
<b>Medical Imaging Services</b>			
	<p>Seamless integration with the hospital's patient information system to access and update patient data, including demographics, medical history, and clinical information.</p> <p>Support for various imaging modalities, including X-rays, MRIs, CT scans, ultrasound, and nuclear medicine.</p> <p>Efficient storage and retrieval of medical images with advanced DICOM (Digital Imaging and Communications in Medicine) support.</p> <p>Assign and manage imaging tasks and appointments, ensuring proper scheduling of patients for various imaging procedures.</p> <p>Long-term storage of medical images in a secure, centralized archive.</p> <p>Rapid retrieval of images for viewing and analysis by radiologists and other healthcare professionals.</p>		

	<p>Seamless integration with a PACS (Picture Archiving and Communication System) system to store, distribute, and manage medical images efficiently.</p> <p>Tools for radiologists and clinicians to generate and interpret medical imaging reports.</p> <p>Integration with reporting systems for structured and standardized reporting.</p> <p>Support for radiologist workflow, including image viewing, annotation, and reporting.</p> <p>Workflow management features to track the progress of each imaging study.</p> <p>Features for sharing images and reports securely with referring physicians and specialists for consultations.</p> <p>Implement quality control checks for image accuracy and consistency.</p> <p>Seamless integration with the hospital's EHR/EMR system to access and share patient medical records alongside imaging data.</p> <p>Tools to assist in billing and coding for imaging services, including CPT and ICD codes.</p> <p>Integration with RIS (Radiology Information System) to manage patient scheduling, exam ordering, and reporting.</p> <p>Ensure the system can handle a growing volume of medical images and patient data.</p> <p>Integration with AI tools for image analysis and pattern recognition to aid in diagnostics.</p>		
	<p><b>Rehabilitative Services - OT, Physio and Ortho-trauma</b></p>		
	<p>Capture and maintain comprehensive patient demographics, medical history, and contact details.</p> <p>Record orthopedic-specific information, such as musculoskeletal history, previous surgeries, and joint replacements.</p> <p>Provide a scheduling system for orthopedic appointments, including consultations, surgeries, and follow-up visits.</p> <p>Support tracking and managing appointments, including rescheduling and cancellations.</p> <p>Integration with EHR to store and access patients' orthopedic medical records, including X-rays, MRI scans, and orthopedic assessments.</p> <p>Seamlessly integrate with orthopedic imaging systems to store and access X-rays, MRIs, CT scans, and other diagnostic images.</p> <p>Manage the scheduling of orthopedic surgeries, including surgeon availability, operating room allocation, and patient preparation.</p>		

	<p>Track and manage inventory of orthopedic implants, prostheses, and surgical instruments.</p> <p>Record surgical details, including the surgical team, procedures performed, and postoperative care plans.</p> <p>Manage postoperative rehabilitation plans and progress, including physical therapy and home exercise programs.</p> <p>Generate invoices for orthopedic services, including surgeries, follow-up consultations, and physical therapy sessions.</p> <p>Support billing processes and insurance claims for orthopedic services.</p> <p>Track and manage medical supplies and equipment used in orthopedic procedures and rehabilitation.</p> <p>Facilitate communication between healthcare providers and orthopedic patients through secure messaging and notifications.</p> <p>Generate reports on orthopedic patient statistics, department performance, and financials.</p> <p>Provide data analytics tools to monitor trends and improve decision-making in orthopedic care.</p> <p>Support interoperability with other modules.</p>		
<b>Morgue Services</b>			
	<p>Capture and maintain detailed records of deceased individuals, including demographics, cause of death, personal effects, and next-of-kin contact information.</p> <p>Track the location of bodies in the morgue, including temperature-controlled storage units.</p> <p>Implement a reliable identification system, to prevent mix-ups.</p> <p>Record and manage information related to autopsies, including autopsy findings, photos, and reports.</p> <p>Maintain a secure chain of custody record for deceased individuals, ensuring their belongings and information are properly handled.</p> <p>Track the release of bodies to funeral homes or other designated parties, ensuring the proper documentation and legal procedures are followed.</p> <p>Generate invoices for morgue services, including storage and post-mortem examinations, and maintain detailed records of all transactions.</p> <p>Track and manage supplies and equipment used in the morgue, including body bags, identification tags, and storage containers.</p> <p>Maintain records for an extended period, as required by regulations, for historical and legal purposes.</p>		

	<p>Provide a system for notifying relevant parties, including family members and law enforcement, about the presence and status of deceased individuals.</p> <p>Establish integration with the medical examiner's office for seamless data sharing and reporting.</p>		
<b>Biomedical Services</b>			
	<p>Maintain a comprehensive inventory of medical equipment and devices, including details such as make, model, serial number, purchase date, and warranty information.</p> <p>Schedule and track routine maintenance tasks for medical equipment to ensure they remain in good working condition.</p> <p>Manage equipment calibration and quality control processes, including documenting calibration results and performance checks.</p> <p>Receive and process service requests and work orders for equipment maintenance, repair, or replacement.</p> <p>Store details about equipment vendors and external service providers, including contact information and service agreements.</p> <p>Track the location of medical equipment within the hospital, including the department or room where each item is situated.</p> <p>Ensure that all medical equipment complies with relevant regulations and standards, such as those imposed by the FDA or other regulatory bodies.</p> <p>Manage an inventory of spare parts and consumables for medical equipment repairs and maintenance.</p> <p>Track asset depreciation and plan for equipment replacement based on lifecycle assessments.</p> <p>Maintain logs of equipment usage, including the frequency and duration of use, to inform maintenance and replacement decisions.</p> <p>Assign maintenance and repair tasks to technicians and engineers and notify them of upcoming assignments.</p> <p>Generate invoices for biomedical services, including maintenance and repair work, and track costs associated with equipment upkeep.</p> <p>Maintain a comprehensive service history for each piece of medical equipment, including all past maintenance, repairs, and upgrades.</p> <p>Generate reports on equipment maintenance, costs, and performance, enabling data- driven decisions.</p>		

Implement strong security measures to protect sensitive information related to medical equipment and restrict access based on roles and responsibilities.

Integrate with the hospital's procurement module to facilitate the purchase and replacement of equipment and parts.

**Billing & Receiving Services**

Capture and maintain detailed patient demographics and insurance details, including policy numbers, coverage types, and group information.

Implement tools for medical coders to assign appropriate CPT (Current Procedural Terminology) and ICD (International Classification of Diseases) codes to services rendered.

Enable entry of charges for medical services, procedures, and supplies based on coding and clinical documentation.

Verify patient insurance coverage, eligibility, and benefits to avoid claim denials and billing errors.

Support the complete billing cycle, including claim generation, review, and submission to insurance companies or government programs.

Automate the processing of insurance claims, including electronic submission to payers and tracking of claim status.

Record payments received from patients and insurance companies, allocate payments to specific charges, and manage adjustments or write-offs.

Generate and send patient statements, invoices, and payment reminders for outstanding balances.

Manage and resolve claim denials or rejections, including resubmissions with corrections as necessary.

Manage appeals for denied claims and follow up with payers to ensure timely payment.

Implement STK push for mobile money payment

Provide tools to estimate patient costs before services are rendered to improve transparency and address patient concerns.

Track and manage provider contracts with insurance companies, including negotiated rates and terms.

Generate reports on billing and collections, including accounts receivable aging, claim status, and revenue performance.

Monitor and optimize the revenue cycle, from patient registration through to collections and reporting.

	<p>Seamlessly integrate with the hospital's EHR/EMR system to access clinical documentation and patient records.</p> <p>Provide online payment portals for patients to make payments, view bills, and access billing information.</p>		
	<b>Rehabilitation services</b>		
	<p>Scheduling and appointment management</p> <p>Capture and maintain comprehensive patient demographics, medical history, and contact details.</p> <p>Maintain patient therapy schedules</p> <p>Progress tracking and reporting.</p>		
	<b>Dental services</b>		
	<p>Dentists and dental staff need appointment scheduling and patient record management.</p> <p>Integration with digital radiography and dental imaging systems.</p> <p>Tools for tracking dental procedures and billing.</p> <p>Patient communication and education tools for oral health.</p> <p>Infection control and sterilization protocols for equipment.</p>		

➤ **Specialized Clinics:**

<b>Clinic/Department</b>	
Oncology	Occupational therapy
Urology	Speech therapy
High-risk	Maxillofacial
Ophthalmology	Interventional radiology
Medical outpatient clinic	Audiology
Pediatric outpatient clinic	Dermatology
Neonatal	Renal clinic
Plastic surgery	Physiotherapy
Neurosurgery	Surgical outpatient clinic
Orthopedic	Occupational therapy
Oncology	Speech therapy
Urology	Maxillofacial
High-risk	Interventional radiology
ENT	Audiology
Medical outpatient clinic	Dermatology
Pediatric outpatient clinic	Renal clinic
Neonatal	Physiotherapy
Plastic surgery	Surgical outpatient clinic
Neuro surgery	Orthopedic

## Health Products & Technologies (HPT) User Requirements

NO	Section	System Requirements
1	Registration	Patient registration should be captured at the triage when the patient enters the facility. This should appear in the system for use in all the departments during the visit.
		History of drugs issued to the patient should be seen
		Patients coming for prescription refills go to pharmacy direct after triage
		Distinction of cash/nhif/other insurance to be done at registration. Thereafter, this can only be changed by HAO
2	List of drugs	The list of medicines <b>SHOULD NOT CONTAIN BRAND NAMES</b> . Only the international non-proprietary names (INN) should appear
		The list should be similar in all hospitals. Addition or deletions should be done centrally at HQ. This will ensure uniformity of reporting.
3	Unit of Issue	The dispensing points should have the lowest unit of issue i.e. tablets, bottles, vials, ampoules
4	System	Should be user friendly
		Immediate deduction of stocks (no lags or delays in synchronization)
		Visibility of available stocks to clinicians
		Different administrative rights for different users
		Stock take feature should have space to explain any variances
		Can easily search for patients
		Offline capabilities for downtimes & immediate synchronization when internet is back
		System to have drug- drug interactions alerts for prescribers and pharmacy personnel
System to have an inbuilt Queuing system in all departments.		
5	Stores	Separate stores for different HPTs - Pharmaceuticals, Non-pharmaceuticals, Laboratory reagents, Nutrition Commodities
		The system should also create SDP stores for each user department
		HPT use in the user departments to automatically deduct stocks from the user department's SDP store
		Capture expiry dates correctly [dd/mm/yyyy] and segregate per batch number
		Min/Max stock levels
		Re-order levels alerts
6	Billing & Payment	All HPTs being dispensed to patients should be automatically billed
		MPESA payment should automatically reflect in the system (no need for patient to go to the cash office)
		System should not allow dispensing until payment reflects at the OPD. For in-patients, discharge should be after payment of bills.
		Receipts generation and printing to be enabled at the dispensing points
		Restricted Reversals – Detailed reversal reports Block unavailable services to avoid billing of drugs/services that are out of stock. Restricted cancellation reports – Detailed reports. Should be able to integrate with Mpesa paybills. Able to interlink with bank accounts
		Interlink the system with insurance company such as SHA and Britam.

		<p>Allow part payment for those who want to offset the bill bit by bit.</p> <p>System to autobill score of the inpatient services given.</p> <p>System to breakdown the departmental revenue.</p>	
7	<b>Reporting</b>	<p>Financial record of daily sales</p> <p>Report on prescription fill rates, value of stock held, expiries, &lt;3months to expiry, months of stock, average mothly consumption for all commodities</p> <p>Ability of the system to do MOH reports for commodities: 647, TB, Malaria, HIV and automatically upload to KHIS</p> <p>A report on HPT consumption vs service data (the patients who consumed the HPTs) i.e DARs - Daily activity registers</p> <p>Transaction history of each HPT from date its received, various issues to user departments/facilities and quantities dispensed to various patients</p>	
8	<b>Dashboard</b>	<p>Can aggregate HPT reports for all facilities using the system</p> <p>Link the patients to HPTs consumption</p> <p>Stock visibility in all facilities i.e NCRH can see what Mt. Kenya Hospital has in stock</p> <p>Access to resourceful downloads e.g drug index</p> <p>Daily workload per user data</p> <p>HPT usage/consumption reports</p>	
9	<b>Security</b>	<p>Encryption of data</p> <p>Limited access to sensitive inputs e.g stock taking, change of quantities etc</p> <ul style="list-style-type: none"> <li>● It should ensure compliance with healthcare regulations such as HIPAA, GDPR, and PHI</li> <li>● It should have encryption, access controls, and audit trails to maintain data integrity and confidentiality.</li> <li>● Should enhance use of strong passwords by the user.(contain special characters)</li> <li>● Should be able to integrate with other systems that are currently in use in the facility</li> <li>● The system to log out the user after a set time when the shift is idle.</li> <li>● Should Contain Section for referral to allow patients access services from different facilities within the county.</li> </ul>	
10	<b>Issues to wards &amp; other facilities</b>	<p>System to autogenerate a serialised s11 document with QR code which can be printed &amp; signed for filing. The QR code can be used to automatically receive products in the other department/facility without manual entries.</p>	

## Reporting Module

- **MOH Reports**

Interoperability with other Government entities (KHIS, SHA, KEMSA etc.)

S/NO	MOH NUMBER	REPORTS	FERQUENCY OF REPORTING
1.	MOH 705 A	OUTPATIENT SUMMARY <5 YEARS REVISED 2020	MONTHLY
2.	MOH 705B	OUTPATIENT SUMMARY >5 YEARS REVISED 2020	MONTHLY
3.	MOH 710	VACCINES AND IMMUNIZATION REV	MONTHLY
4.	MOH 711	INTEGRATED SUMMARY REPORT REPRODUCTIVE AND CHILD HEALTH MEDICAL AND REHABILITATION SERVICES REV 2020	MONTHLY
5.	MOH 706	LABORATORY SUMMARY REPORT REVISED 2020	MONTHLY
6.	MOH 505	IDSR WEEKLY EPIDEMIC MONITORING FORM REV 2020	WEEKLY
7.	MOH 646	CANCER FACILITY CONSUMPTION DATA REPORT AND REQUEST TOOL	MONTHLY
8.	MOH 364	SEXUAL GENDER BASED VIOLENCE SUMMARY REV 2023	MONTHLY
9.	MOH 745	CANCER SCREENING PROGRAM MONTHLY SUMMARY FORM	MONTHLY
10.	MOH 735	OPHTHALMIC SERVICES REV 2023	MONTHLY
11.	MOH 733B	NUTRITION SERVICES SUMMARY TOOL REVISION 2016	MONTHLY
12.	MOH 755	OPHTHALMIC FCDRR	MONTHLY
13.	MOH 754	754OXYGEN SERVICE DELIVERY MONTHLY SUMMARY FORM	MONTHLY
14.	MOH 753	OXYGEN COMMODITY MONTHLY SUMMARY TOOL	MONTHLY
15.	MOH 750	INTEGRATED PHYSIOTHERAPY OUTPATIENT INPATIENT CBR AND DISABILITY MAINSTREAMING SUMMARY	MONTHLY
16.	MOH 749	INTEGRATED SUMMARY REPORT FOR IPC ,AMR PATIENT AND HW SAFETY AND INCIDENTS REVISION 2023	MONTHLY
17.	MOH 747	FACILITY CONTRACEPTIVES CONSUMPTION REPORT AND REQUEST FORM REVISION 2023	MONTHLY
18.	MOH 746	CANCER CARE AND TREATMENT MPNTHLY SUMMARY	MONTHLY
19.	MOH 744	OCCUPATIONAL THERAPY SUMMARY FORM	MONTHLY
20.	MOH 743	MALARIA COMMODITIES FORM REV 2020	MONTHLY
21.	MOH 740	DIABETES AND HYPERTENSION COMPREHENSIVE CARE MONTLY SUMMARY FORM	MONTHLY
22.	MPH 734	FCDRR FOR NUTRITION COMMODITIES REVISION 2019	MONTHLY
23.	MOH 731	HIV TESTING AND PREVENTION SERVICES,HIV AND TB TREATMENT,MEDICAL MALE CIRCUMCISION, POST EXPOSURE PROPHYLAXIS	MONTHLY
24.	MOH 731	PLUS PREP SUMMARY REPORTING TOOL	MONTHLY

25.	MOH 713	NUTRITION MONTHLY REPORTING	MONTHLY
26.	MOH 717	SERVICE WORKLOAD	MONTHLY
27.	MOH 643	FCDRR REVISION 2019 FACILITY CONSUMPTION DATA AND REQUEST (FCDRR FOR LAB COMMODITIES)	MONTHLY
28.	N/A	Adhoc Custom Reports	Customizable

### County Monthly Financial Reports

- Daily shift analysis report
- Monthly shift analysis report
- SHA report
- Bank reconciliation
- Cash management report
- Department reports (showing what each department has generated)
- Revenue stream report (SHA, and all other insurances)

### Special reports

1. MOH REPORT
2. KHIS
3. SHA

### Other Key Modules/Functionalities

- ✓ Public Health Services
- ✓ Audit Trail Module
- ✓ System Administration Module
- ✓ Appointments and ticketing/HR Module
- ✓ Telemedicine
- ✓ Customer service

### V. Stakeholders

The key stakeholders are the Department of Health Services in collaboration with the Department of ICT, Education and Internship. Other stakeholders include:

- a) The County Treasury
- b) Ministry of Health
- c) Ministry of Information Communication and Digital Economy
- d) Strategic partners supporting health programs

### VI. Project Timeline

- This project is expected to be complete within 3 years after the contract sign-off. A detailed implementation plan will be developed jointly by the county and the service provider to include activities against each milestone.

### VII. Budget

- The project is fully funded by the county government through the department of Health Services.

### VIII. Vendor Selection

- Vendor selection will be as directed by the Directorate of Supply Chain Management and in line with the Public Procurement and Asset Disposal Act, 2015 and the procurement regulations in

force.

## IX. User Training

User training shall target all user groups including operators, supervisors, management, executive and the ICT personnel (also to trained as trainer of trainees). Training shall be conducted in a simulation environment where training materials including manuals, system flow charts and use case diagrams shall be availed.

## X. Data Migration

The service shall include data capture, clean-up, validation and verification.

## XI. Quality Assurance and Testing

This shall include stress testing, user acceptance testing, security testing and other relevant system testing for quality assurance.

## XII. System Change-Over

The service shall include implementation of a change management process and consider both pilot and modular change- overs.

### B. Functional, Architectural and Performance Requirements

#### i) Legal and Regulatory Requirements to be met by the Information System

1.1 The Information System MUST comply with the following laws and regulations:

- 1) *[as appropriate, summarize: each relevant legal code and regulations that govern the business processes and procedures that will be automated with the Information System;]*
- 2) **Note:** If appropriate, prepare a sub section with the relevant legal codes and regulations to be included in the Background and Informational Materials and reference these materials.

#### ii) Business Function Requirements to be met by the Information System

2.1 The Information System MUST support the following business functions

- 1) *[describe, at the appropriate level of detail for the Information System being supplied and installed: each specific business processes and procedures that will be automated by the Information System.]*
- 2) **Note:** *These business process descriptions may be textual as well as presented in a formal system analysis formats (e.g., process model and data model, use-case model, entity-relation diagrams, swim- lane diagrams, etc.)*

*As appropriate, prepare a subsection for the Background and Informational Materials with samples of existing standardized reports, data entry forms, data formats, data coding schemes, etc. which the Information System will need to implement; reference these materials.*

#### iii) Architectural Requirements to be met by the Information System

(3.1) The Information System MUST be supplied and configured to implement the following architecture:

- Web-based and mobile-accessible (Android & iOS compatible).
- SQL-compliant relational database with ACID transaction support.
- Modular, scalable architecture capable of handling future upgrades and integrations.
- Open API for integration with third-party applications.
- Supports both cloud and on-premises deployment.

## Security and Compliance

- HIPAA, HL7, ISO 27001-aligned data security controls.
- Role-based access control.
- Full audit trail of all transactions.
- Secure data backup, recovery, and redundancy mechanisms.

### iv) Performance Requirements of the Information System

5.1 The Information System MUST ensure fast end to end transaction of data.

#### i) Systems Administration and Management Functions Required to be met by the Information System

- 1) The Information System MUST provide for the following management, administration, and security features at the overall System level in an integrated fashion.
- 2) Installation, Configuration and Change Management.
- 3) Operational Monitoring, Diagnostics, and Troubleshooting.
- 4) User Administration and Access Control; User and Usage Monitoring and Audit Trails.
- 5) System and Information Security and Security Policies.
- 6) Back-up and Disaster- Recovery.

### C. Service Specifications– Supply& Install Items

i) System Analysis, Design and Customization/ Development

- (1) The Supplier MUST perform the following Analysis and Design activities using a formal system analysis/ development methodology with the following key activities and design deliverables.
- 2) *Detailed Analysis: [for example, specify: **System Design Document; System Requirements Specification; Interface Requirements Specification; Software/System Test Descriptions; Software/ System Test Plan, etc.]***
- 3) *Physical Design: [for example, specify: **Software Design Description; Interface Design Document; Data base Design Document; etc.]***
- 4) *Integrated System: [for example, specify: **User's Manual; Operations Manual;***

ii) Software Customization/ Development

- (1) The Supplier MUST perform Software Customization / Development using a formal software development methodology with the following characteristics and/ or with the following technologies and/ or tools.
- 2)[for example, describe: **Software Development Method** (e.g., Cascade, Rapid Application Development;  
**and/ or Open Standards** (e.g., Java, XML, etc.); **and/ or CASE tools, etc.]**

iii) System Integration (to other existing systems)

- 1) The Supplier MUST perform the following Integration Services [ for example, describe: **existing information systems** (as appropriate, reference the relevant subsection of the Background and Informational Materials Section containing any detailed description of existing systems); and specify: **technical and functional level of integration with the Information System.**]

(iv) Training and Training Materials

(4.1) The Supplier MUST provide the following Training Services and Materials.

- 1) User: [for example, specify: **minimum curricula, modes of training, modes of testing, and training materials for: the introduction to computers, the operation of the relevant equipment incorporated in the System, as well as the operation of the Software applications incorporated in the System;** as appropriate, reference the relevant subsection in the Background and Informational Material Section containing any detailed information regarding the available training facilities; etc.]
- 2) Technical: [for example, specify: **minimum curricula, modes of training, modes of testing (e.g., certification levels), training materials and training locations for: the key technology and methodology components of the Information System;** etc.]
- 3) Management: [for example, specify: **minimum curricula, modes of training, modes of testing, training materials and training locations for: the familiarization with the functionality, technology and methodology components of the Information System, corporate management of information systems;** etc.]

v) **Data Conversion and Migration**

- 1) The Supplier MUST provide services and tools to perform the following Data Conversion and Migration Services: *[for example, specify: volume of data; type, structure, and media of data; timing of conversion; quality assurance and validation methods; etc.]*

vi) **Documentation Requirements**

(6.1) The Supplier MUST prepare and provide the following Documentation.

- 1) End-User Documents: *[ for example, specify: type(s) of end-user documents; language; content; formats; quality control and revision management; medium; reproduction and distribution methods; etc.]*
- 2) Technical Documents: *[ for example, specify: type(s) of technical documents; language; content; formats; quality control and revision management; medium; reproduction and distribution methods; etc.]*

vii) **Requirements of the Supplier's Technical Team**

(7.1) The Supplier MUST maintain a technical team of the following roles and skill levels during the Supply and Installation Activities under the Contract:

- 1) Project Team Leader: *[for example, specify: education/ certifications, years' experience in, demonstrated successful experience in, etc.]*
- 2) *[specify: **Business Area**]* Expert: *[for example, specify: education/ certifications, years' experience in, demonstrated successful experience in, etc.]*
- 3) System Analyst: *[for example, specify: education/certifications, years' experience in, demonstrated successful experience in, etc.]*
- 4) Database Expert: *[for example, specify: education/certifications, years' experience in, demonstrated successful experience in, etc.]*
- 5) Programming Expert: *[for example, specify: education/certifications, years' experience in, demonstrated successful experience in, etc.]*
- 6) System Administration / Security Expert: *[for example, specify: education/ certifications, years' experience in, demonstrated successful experience in, etc.]*
- 7) Computer Hardware Expert: *[for example, specify: education/ certifications, years' experience in, demonstrated successful experience in, etc.]*
- 8) Network and Communications Expert: *[for example, specify: education/ certifications, years' experience in, demonstrated successful experience in, etc.]*
- 9) Training Expert: *[for example, specify: education/certifications, years' experience in, demonstrated successful experience in, etc.]*
- 10) Documentation Specialist: *[for example, specify: education/certifications, years' experience in, demonstrated successful experience in, etc.]*

## SECTION 6. CONDITIONS OF CONTRACT AND CONTRACT FORMS

### Preface

1. This Section includes two types of standard contract forms for: A Lump-Sum Contract and a Time-Based Contract. Each type includes General Conditions of Contract (“GCC”) that shall not be modified, and Special Conditions of Contract (“SCC”). The SCC includes clauses specific to each contract to supplement, but not over- write or otherwise contradict, the General Conditions of Contract.
2. Lump-Sum Contract. This type of contract is used mainly for assignments in which the scope and the duration of the Services and the required output of the Consultant are clearly defined. Payments are linked to outputs (deliverables) such as draft or final reports, drawings, bill of quantities, bidding documents, or software programs. Lump-sum contracts are easier to administer because they operate on the principle of a fixed price for a fixed scope, and payments are due on clearly specified out puts and milestones. Never the less, quality control of the Consultant's outputs by the Procuring Entity s paramount.
3. Time-Based Contract. This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and Consultant's remuneration is determined on the basis of the time actually spent by the Consultant in carrying out the Services and is based on (i) agreed upon unit rates for the Consultant's experts multiplied by the actual time spent by the experts in executing the assignment, and (ii) reimbursable expenses using actual expenses and/or agreed unit prices. This type of contract requires the Procuring Entity to closely supervise the Consultant and to be involved in the daily execution of the assignment.
4. The templates are designed for use in assignments with consulting firms and shall not be used for contracting of individual experts. In some consultancy assignments such as design and construction supervision, both Lump- Sum and Time-Based Contracts are used and signed with the Consultant. In that case, the Lump-Sum Contract would apply for the design part of the Services while the construction supervision part would be based on a Time- Based Contract. In such event, both types of contracts shall be signed at the same time.

# CONTRACT FOR CONSULTANT'S SERVICES

Lump-Sum Contract

Consulting Services for:

Contract No.: \_\_\_\_\_

Contract Description: \_\_\_\_\_

Between

\_\_\_\_\_ *[Name of the Procuring Entity]*

and

\_\_\_\_\_ *[Name of the Consultant]*

Date:

## I. FORM OF CONTRACT - LUMP-SUM

*(Text in brackets [ ] is optional; all notes should be deleted in the final text)*

This CONTRACT (herein after called the “Contract”) is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Procuring Entity]* (herein after called the “Procuring Entity”) and, on the other hand, *[name of Consultant]* (herein after called the “Consultant”).

*[If the Consultant consists of more than one entity, the above should be partially amended to read as follows: “... (hereinafter called the “Procuring Entity”) and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Procuring Entity for all the Consultant's obligations under this Contract, namely, [name of member] and [name of member] (herein after called the “Consultant”).]*

### WHEREAS

- a) The Procuring Entity has requested the Consultant to provide certain consulting services as defined in this Contract (herein after called the “Services”);
  - b) the Consultant, having represented to the Procuring Entity that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
  - c) the Procuring Entity has set aside a budget and funds toward the cost of the Services and intends to apply a portion of these funds towards payments under this Contract;
- NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached here to shall be deemed to form an integral part of this Contract:
  - a) The General Conditions of Contract;
  - b) The Special Conditions of Contract;
  - c) Appendices:
    - Appendix A: Terms of Reference
    - Appendix B: Key Experts
    - Appendix C: Breakdown of Contract Price
    - Appendix D: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract; Appendix A; Appendix B; Appendix C; Appendix D. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Procuring Entity and the Consultant shall be asset for thin the Contract, in particular:
  - a) The Consultant shall carryout the Services in accordance with the provisions of the Contract; and
  - b) the Procuring Entity shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties here to have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of..... *[Name of Procuring Entity]*  
*[Authorized Representative of the Procuring Entity–name, title and signature]*

For and on behalf of..... *[Name of Consultant or Name of a Joint Venture]*  
*[Authorized Representative of the Consultant–name and signature]*

**[Note:** For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]

For and on behalf of each of the members of the Consultant..... *[Insert the Name of the Joint Venture]*  
*[Name of the lead member]*  
*[Authorized Representative on behalf of a Joint Venture] [Add signature blocks for each member if all are signing]*

## SECTION 7: GENERAL CONDITIONS OF CONTRACT

### A. General Provisions

#### 1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- a) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
  - b) “Consultant” means a legally-established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
  - c) “Contract” means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
  - d) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the selected Consultant.
  - e) “Day” means a working day unless indicated otherwise.
  - f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
  - g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
  - h) “Foreign Currency” means any currency other than the currency of Kenya.
  - i) “GCC” mean these General Conditions of Contract.
  - j) “Government” means the government of Kenya.
  - k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
  - l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.
  - m) “Local Currency” means the Kenya Shillings, the currency of Kenya.
  - n) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part here of under the Contract.
  - o) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
  - p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
  - q) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
  - r) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

- (t) "Third Party" means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

## **2. Relationship between the Parties**

- 1.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

## **3. Law Governing Contract**

- 1.2 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of Kenya.

## **4. Language**

- 4.1 This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

## **5. Headings**

- 5.1 The headings shall not limit, alter or affect the meaning of this Contract.

## **6. Communications**

- 6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the English Language. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

- 6.2 A Party may change its address for notice here under by giving the other Party any communication of such change to the address specified in the SCC.

## **7. Location**

- 7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

## **8. Authority of Member in Charge**

- 8.1 In case the Consultant is a Joint Venture, the members hereby authorize them ember specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

## **9. Authorized Representatives**

- 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

## **10. Corrupt and Fraudulent Practices**

- 10.1 The government requires compliance with its policy regarding corrupt and fraudulent/prohibited practices as set forth in its laws and policies.

- 10.2 Commissions and Fees-**The Procuring Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to a gents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract by the Procuring Entity and/or sanctions by the PPRA.

## **B. Commencement, Completion, Modification and Termination of Contract**

### **11 Effectiveness of Contract**

- 11.1 This Contract shall come into force and effect on the date (the “Effective Date”) of the Procuring Entity's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

### **12 Termination of Contract for Failure to Become Effective**

- 12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty-two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect there to.

### **13 Commencement of Services**

- 13.1 The Consultant shall confirm availability of Key Experts and begins carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

### **14 Expiration of Contract**

- 14.1 Unless terminated earlier pursuant to Clause GCC19hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

### **15 Entire Agreement**

- 15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

### **16 Modifications or Variations**

- 16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

### **17 Force Majeure**

#### **a. Definition**

- 17.1 For the purposes of this Contract, “ Force Majeure” means event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2 Force Majeure shall not include (i) any event which his caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or over come in the carrying out of its obligations here under.
- 17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required here under.

#### **b. No Breach of Contract**

- 17.4 The failure of a Party to fulfill any of its obligations here under shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative

measures, all with the objective of carrying out the terms and conditions of this Contract.



**c. Measures to be taken**

- 17.5 A party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- a) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
  - b) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Procuring Entity, shall either:
  - c) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Procuring Entity, in reactivating the Services; or
  - d) Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed or additional costs reasonably and necessarily incurred.
- 17.7 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 44 & 45.

**18 Suspension**

- 18.1 The Procuring Entity may, by written notice of suspension to the Consultant, suspend all payments to the Consultant here under if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) Shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

**19 Termination**

- 19.1 This Contract may be terminated by either Party as per provisions set up below:

**a. By the Procuring Entity**

- 19.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):
- a If the Consultant fails to remedy a failure in the performance of its obligations here under, as specified in a notice of suspension pursuant to Clause GCC 18;
  - b If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go in to liquidation or receivership whether compulsory or voluntary;
  - c If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;
  - d If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
  - e If the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
  - f If the Consultant fails to confirm availability of Key Experts as required in Clause GCC13.

19.1.2 Furthermore, if the Procuring Entity determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

**b. By the Consultant**

- a) The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Procuring Entity, in case of the occurrence of any of the events specified in paragraphs(a)through(d)of this Clause.
- b) If the Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC45.1withinforty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- c) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- d) If the Procuring Entity fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC45.1.
- e) If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

**c. Cessation of Rights and Obligations**

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC14, all rights and obligations of the Parties here under shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC22, (iii) the Consultant's obligation to permit in section, copying and auditing of their accounts and records set forth in Clause GCC25, and (iv) any right which a Party may have under the Applicable Law.

**d. Cessation of Services**

19.1.5. Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by Clauses GCC27or GCC28.

**e. Payment up on Termination**

19.1.6 Up on termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- a) Payment or Services satisfactorily performed prior to the effective date of termination; and
- b) In the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

**C. Obligations of the Consultant**

**16. General**

**a. Standard of Performance**

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

- 20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.
- 20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Procuring Entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

**b. Law Applicable to Services**

- 20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.
- 20.5 Throughout the execution of the Contract, the Consultants shall comply with the import of goods and services prohibitions in Kenya when
- a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
  - b by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.
- 20.6. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

**21 Conflict of Interests**

- 21.1 The Consultant shall hold the Procuring Entity's interest paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

**a. Consultant Not to Benefit from Commissions, Discounts, etc.**

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 38 through 42) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations here under, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.

**b. Consultant and Affiliates Not to Engage in Certain Activities**

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

**c. Prohibition of Conflicting Activities**

21.1.4 The Consultant shall not engage and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

**d. Strict Duty to Disclose Conflicting Activities**

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.



## **22 Confidentiality**

- 22.1 Except with the prior written consent of the Procuring Entity, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or because of, the Services.

## **23 Liability of the Consultant**

- 23.1 Subject to additional provisions, if any, set for in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

## **24 Insurance to be taken out by the Consultant**

- 24.1 The Consultant (i) shall take out and maintain and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC13.

## **25 Accounting, Inspection and Auditing**

- 25.1 The Consultant shall keep and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.
- 25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the PPRA and/ or persons appointed by the PPRA to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Consultant's attention is drawn to Clause GCC10 which provides, interlaid, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights provided for under this ClauseGCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of in eligibility under the PPRA's prevailing sanctions procedures.)

## **26 Reporting Obligations**

- 26.1 The Consultant shall submit to the Procuring Entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

## **27 Proprietary Rights of the Procuring Entity in Reports and Records**

- 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Procuring Entity in the course of the Services shall be confidential and become and remain the absolute property of the Procuring Entity. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Procuring Entity.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements, and the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

## **28 Equipment, Vehicles and Materials**

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Procuring Entity or purchased by the Consultant wholly or partly with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure them at the expense of the Procuring Entity in an amount equal to their full replacement value.
- 28.2 Any equipment or materials brought by the Consultant or its Experts into Kenya for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

#### **D. Consultant's Experts and Sub-consultants**

##### **29 Description of Key Experts**

- 29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

##### **30 Replacement of Key Experts**

- 30.1 Except as the Procuring Entity may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

##### **31 Removal of Experts or Sub-consultants**

- 31.1 If the Procuring Entity finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practice while performing the Services, the Consultant shall, at the Procuring Entity's written request, provide a replacement.
- 31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Procuring Entity to be incompetent or incapable in discharging assigned duties, the Procuring Entity, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 31.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Procuring Entity.
- 31.4 The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

#### **E. Obligations of the Procuring Entity**

##### **32 Assistance and Exemptions**

- 32.1 Unless otherwise specified in the SCC, the Procuring Entity shall use its best efforts to:
- a Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
  - b Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the Services under the Contract.
  - c Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Expert and their eligible dependents.
  - d Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
  - e Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the

Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Kenya according to the applicable law in Kenya

- f Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Kenya, of bringing in to Kenya reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- g Provide to the Consultant any such other assistance as may be specified in the SCC.

### **33 Access to Project Site**

- 33.1 The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Procuring Entity will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **34 Change in the Applicable Law Related to Taxes and Duties**

- 34.1 If, after the date of this Contract, there is any change in the applicable law in Kenya with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 39.1

### **35 Services, Facilities and Property of the Procuring Entity**

- 35.1 The Procuring Entity shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.

### **36 Counterpart Personnel**

- 36.1 The Procuring Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Procuring Entity with the Consultant's advice, if specified in Appendix A.
- 36.2 Professional and support counterpart personnel, excluding Procuring Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work as signed to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

### **37 Payment Obligation**

- 37.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make such payments to the Consultant for the deliverables specified in Appendix A and in such manner as is provided by GCCF below.

## **F. Payments to the Consultant**

### **38 Contract Price**

- 38.1 The Contract price is fixed and is set forth in the SCC. The Contract price breakdown is provided in Appendix C.
- 38.2 Any change to the Contract price specified in Clause 38.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in Appendix A.

## **39 Taxes and Duties**

- 39.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.Currency of Payment
- 39.2 Any payment under this Contract shall be made in the currency (ies) of the Contract.

## **40 Mode of Billing and Payment**

- 40.1 The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.
- 40.2 The payments under this Contract shall be made in lump-sum installments against deliverables specified in Appendix A. The payments will be made according to the payment schedule stated in the SCC.
- 40.2.1 *Advance payment:* Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Procuring Entity in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (I) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix D, or in such other form as the Procuring Entity shall have approved in writing. The advance payments will be set off by the Procuring Entity in equal portions against the lump-sum installments specified in the SCC until said advance payments have been fully set off.
- 40.2.2 *The Lump-Sum Installment Payments.* The Procuring Entity shall pay the Consultant within sixty (60) days after the receipt by the Procuring Entity of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Procuring Entity does not approve the submitted deliverable(s) as satisfactory in which case the Procuring Entity shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and there after the fore going process shall be repeated.
- 40.2.3 *The Final Payment:* The final payment under this Clause shall be made only after the final report has been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall then be deemed completed and finally accepted by the Procuring Entity. The last lump-sum installment shall be deemed approved for payment by the Procuring Entity within ninety (90) calendar days after receipt of the final report by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and there after the fore going process shall be repeated.
- 40.2.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- 40.2.5 With the exception of the final payment under 40.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations here under.

## **41 Interest on Delayed Payments**

- 41.1 If the Procuring Entity had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

## **G. Fairness and Good Faith**

### **42 Good Faith**

- 42.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

## **H. Settlement of Disputes**

### **43 Amicable Settlement**

- 43.1.2 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 43.1.3 If either Party objects to any action or in action of the other Party, the objecting Party may file a written

Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 45.1 shall apply.

#### **44 Dispute Resolution**

44.1.2 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the SCC.

## SECTION 8: SPECIAL CONDITIONS OF CONTRACT

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	<p>The Contract shall be construed in accordance with the law of Kenya</p> <p><i>[Where the Parties may designate the law of another country, in which case the name of the respective country should be inserted, and the name of Kenya should be removed.]</i></p>
4.1	<p>The language is: English</p>
6.1 and 6.2	<p>The addresses are <i>[fill in at negotiations with the selected firm]</i>:</p> <p>Procuring Entity: _____            Attention: _____            Facsimile: _____            E-mail: _____</p> <p>Consultant: _____            Attention: _____            Facsimile: _____            E-mail: _____</p>
8.1	<p><i>[If the Consultant consists only of one entity, state "N/A";</i>  <i>OR</i>  <i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]</i>            The Lead Member on behalf of the JV is _____ <i>[insert name of the member]</i></p>
9.1	<p>The Authorized Representatives are:</p> <p>For the Procuring Entity: <i>[name, title]</i> _____            For the Consultant: <i>[name, title]</i> _____</p>
11.1	<p>The effectiveness conditions are the following:  <i>[Note: If there are no effectiveness conditions, state "N/A"]</i></p> <p><i>OR</i></p> <p><i>List here any conditions of effectiveness of the Contract, e.g., receipt by the Consultant of an advance payment, and by the Procuring Entity of an advance payment guarantee (see Clause SCC45.1(a)), etc.]</i></p>
12.1	<p>Termination of Contract for Failure to Become Effective:</p> <p>The time period shall be _____ <i>[insert time period, e.g.: four months]</i>.</p>
13.1	<p>Commencement of Services:</p> <p>The number of days shall be _____ <i>[e.g.: ten]</i>.</p> <p>Confirmation of Key Experts' availability to start the Assignment shall be submitted to the</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Procuring Entity in writing as a written statement signed by each Key Expert.
14.1	<p>Expiration of Contract:</p> <p>The time period shall be ___ <i>[insert time period, e.g.: twelve months]</i>.</p>
21.1.3.	<p>The Procuring Entity reserves the right to determine on a case-by-case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3</p> <p>Yes: _____ No: _____</p>
23.1	<p>No additional provisions.</p> <p><i>[OR</i></p> <p>The following limitation of the Consultant’s Liability towards the Procuring Entity can be subject to the Contract’s negotiations:</p> <p>“Limitation of the Consultant’s Liability towards the Procuring Entity:</p> <p>(a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity’s property, shall not be liable to the Procuring Entity:</p> <p style="padding-left: 40px;">(i) for any indirect or consequential loss or damage; and</p> <p style="padding-left: 40px;">(ii) for any direct loss or damage that exceeds two times the total value of the Contract;</p> <p>(b) This limitation of liability shall not</p> <p style="padding-left: 20px;">(i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;</p> <p style="padding-left: 20px;">(ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law.</p> <p><i>[Notes to the Procuring Entity and the Consultant:</i></p> <p><i>Any suggestions made by the Consultant in the Proposal to introduce exclusions/limitations of the Consultant’s liability under the Contract should be carefully scrutinized by the Procuring Entity <u>prior to accepting any changes</u> to what was included in the issued RFP.</i></p> <p><i>To be acceptable to the Procuring Entity, any limitation of the Consultant’s liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause to the Procuring Entity, and (b) the Consultant’s ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant’s liability shall not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. <u>A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Procuring Entity.</u> Also, the Consultant’s liability should never be limited for loss or damage caused by the Consultant’s gross negligence or willful misconduct.</i></p> <p><i>The Procuring Entity does not accept a provision to the effect that the Procuring Entity shall indemnify and hold harmless the Consultant against Third Party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Procuring Entity to the extent permissible by the law applicable in Kenya.]</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
24.1	<p>The insurance coverage against the risks shall be as follows:</p> <p><i>[Delete what is not applicable except (a)].</i></p> <p>(a) Professional liability insurance, with a minimum coverage of _____ <i>[insert amount and currency which should be not less than the total ceiling amount of the Contract];</i></p> <p>(b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Procuring Entity’s country by the Consultant or its Experts or Sub-consultants, with a minimum coverage of <i>[insert amount and currency or state “in accordance with the applicable law in the Procuring Entity’s country”];</i></p> <p>(c) Third Party liability insurance, with a minimum coverage of <i>[insert amount and currency or state “in accordance with the applicable law in Kenya”];</i></p> <p>(d) employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the Applicable Law in Kenya, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</p>
27.1	<p>The additional rights to the use of the documents are:</p> <p><i>[If applicable, insert any exceptions to proprietary rights provisions]</i></p>
27.2	<p><i>[If there is to be no restriction on the future use of these documents by either Party, this Clause SCC 27.2 should be indicated as Not Applicable.</i></p> <p><i>If the Parties wish to restrict such use, any of the following options, or any other option agreed to by the Parties, could be used:</i></p> <p><i>[The Consultant shall not use these [insert what applies..... documents and software.... ] for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.]</i></p> <p><i>[OR]</i></p> <p><i>[The Procuring Entity shall not use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the Consultant.]</i></p> <p><i>[OR]</i></p> <p><i>[Neither Party shall use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the other Party.]</i></p>
32.1 (a) through (f)	<p><i>[List here any changes or additions to Clause GCC 32.1. If there are no such changes or additions, indicate Not Applicable.]</i></p>
32.1(g)	<p><i>[List here any other assistance to be provided by the Procuring Entity. If there is no such other assistance, indicate Not Applicable for this Clause SCC 32.1(g).]</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
38.1	<p>The Contract price is: _____ <i>[insert amount and currency for each currency as applicable]</i> <i>[indicate: inclusive or exclusive]</i> of local taxes.</p> <p>Any local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall <i>[insert as appropriate: “be paid” or “reimbursed”]</i> by the Procuring Entity <i>[insert as appropriate: “for “or “to”]</i> the Consultant.</p> <p>The amount of such taxes is _____ <i>[insert the amount as finalized at the Contract’s negotiations on the basis of the tax amounts provided by the Consultant in Form FIN-2 of the Consultant’s Financial Proposal.</i></p>
39.1 and 39.2	<p><i>[The Procuring Entity, depending on the source of funds and tax exemptions already granted by the Government, shall decide whether the Consultant (i) should be exempted from local tax, or (ii) should be reimbursed by the Procuring Entity for any such tax they might have to pay (or that the Procuring Entity would pay such tax on behalf of the Consultant)]</i></p> <p>The Procuring Entity warrants that <i>[choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations (Form FIN-2)]</i></p> <p><i>If ITC16.3 indicates a tax exemption status, include the following: “the Consultant, the Sub-consultants and the Experts shall be exempt from”</i></p> <p><i>OR</i></p> <p><i>If ITC16.3 does not indicate the exemption and, depending on whether the Procuring Entity shall pay the withholding tax or the Consultant has to pay, include the following:</i></p> <p><i>“the Procuring Entity shall pay on behalf of the Consultant, the Sub-consultants and the Experts,” OR “the Procuring Entity shall reimburse the Consultant, the Sub-consultants and the Experts”]</i></p> <p>any taxes, duties, fees, levies and other impositions imposed, under the applicable law in the Procuring Entity’s country, on the Consultant, the Sub-consultants and the Experts in respect of:</p> <p>(a) any payments whatsoever made to the Consultant, Sub-consultants and the Experts (other than nationals or permanent residents of Kenya), in connection with the carrying out of the Services;</p> <p>(b) any equipment, materials and supplies brought into Kenya by the Consultant or Sub-consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them;</p> <p>(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Procuring Entity and which is treated as property of the Procuring Entity;</p> <p>(d) any property brought into Kenya by the Consultant, any Sub-consultants or the Experts (other than nationals or permanent residents of Kenya), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Procuring Entity’s country, provided that:</p> <p>(i) the Consultant, Sub-consultants and experts shall follow the usual customs procedures of Kenya in importing property into Kenya; and</p> <p>(ii) if the Consultant, Sub-consultants or Experts do not withdraw but dispose of any property in the Procuring Entity’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of Kenya, or (b) shall reimburse them to the Procuring Entity if they were paid by the Procuring Entity at the time the property in question was brought into the Procuring Entity’s country.</p>
40.2	<p>The payment schedule:</p> <p><i>[Payment of installments shall be linked to the deliverables specified in the Terms of Reference in Appendix A]</i></p> <p>1<sup>st</sup> payment: <i>[insert the amount of the installment, percentage of the total Contract price, and</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p><i>the currency. If the first payment is an advance payment, it shall be made against the bank guarantee for the same amount as per GCC 41.2.1]. E.g. “Twenty (20) percent of the lumpsum contract price shall be paid upon submission and approval of the Inception Report</i></p> <p>2<sup>nd</sup> payment: Example: Sixty (60) percent of the lumpsum Contract Price shall be paid upon submission of an acceptable Draft Report.</p> <p>3<sup>rd</sup> and Final Payment: Example: Twenty (20) percent of the lumpsum Contract Price shall be paid upon submission and approval of the Final Report.</p> <p><i>[Total sum of all installments shall not exceed the Contract price set up in SCC38.1. Every Payment shall be subject to (i) submission to the Procuring Entity of the prerequisite Report and/or payment request documents, and, (ii) approval and acceptance of the said reports and documents by the Procuring Entity]</i></p>
40.2.1	<p><i>[The advance payment could be in either the foreign currency, or the local currency, or both; select the correct wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies)]</i></p> <p>The following provisions shall apply to the advance payment and the advance bank payment guarantee:</p> <p>(1) An advance payment [of <i>[insert amount]</i> in foreign currency] [and of <i>[insert amount]</i> in Kenya Shillings] shall be made within <i>[insert number]</i> days after the receipt of an advance bank payment guarantee by the Procuring Entity. The advance payment will be set off by the Procuring Entity in equal portions against [list the payments against which the advance is offset].</p> <p>(2) The advance bank payment guarantee shall be in the amount and in the currency of the currency (ies) of the advance payment.</p> <p>(3) The bank guarantee will be released when the advance payment has been fully set off.</p>
40.2.4	<p>The accounts are:</p> <p>for foreign currency: <i>[insert account]</i>.</p> <p>for local currency: <i>[insert account]</i>.</p>
41.1	<p>The interest rate is: <i>[insert rate]</i>.</p>
44.1	<p>Disputes shall be settled by arbitration in accordance with the following provisions:</p> <p>1. <b>Selection of Arbitrators.</b> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>[name an appropriate international professional body, e.g., the Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland]</i> for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>[insert the name of the same professional body as above]</i> shall appoint, upon the request of either Party and from</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Procuring Entity and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>[name an appropriate international appointing authority, e.g., the Secretary General of the Permanent Court of Arbitration, The Hague; the Secretary General of the International Centre for Settlement of Investment Disputes, Washington, D.C.; the International Chamber of Commerce, Paris; etc.]</i>.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the <i>[name the same appointing authority as in said paragraph (b)]</i> to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</p>
	<p>2. <u>Rules of Procedure.</u> Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p> <p>3. <u>Substitute Arbitrators.</u> If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. <u>Nationality and Qualifications of Arbitrators.</u> The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country <i>[If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties]</i> or of the Government's country. For the purposes of this Clause, "home country" means any of:</p> <p>(a) the country of incorporation of the Consultant <i>[If the Consultant consists of more than one entity, add: or of any of their members or Parties];</i> or</p> <p>(b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or</p> <p>(c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or</p> <p>(d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.</p>
	<p>5. <u>Miscellaneous.</u> In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in <i>[select a country which is neither the Procuring Entity's country nor the Consultant's country];</i></p> <p>(b) the <i>[type of language]</i> language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p>

## SECTION 9: APPENDICES

### Appendix A – Terms of Reference

[Note: This Appendix shall include the final Terms of Reference (TORs) worked out by the Procuring Entity and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Consultant will be made; Procuring Entity's input, including counterpart personnel assigned by the Procuring Entity to work on the Consultant's team; specific tasks or actions that require prior approval by the Procuring Entity.

Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 of the Consultant's Proposal. Highlight the changes to Section 5 of the RFP

.....

### Appendix B - Key Experts

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

.....

### Appendix C – Breakdown of Contract Price

{Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall be based on [Form FIN-3 and FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3 and FIN-4] at the negotiations or state that none has been made.}

### Appendix D - Form of Advance Payment Guarantee

[Note: See Clause GCC 41.2.1 and SCC 41.2.1]

Bank Guarantee for Advance Payment \_\_\_\_\_ [Bank's Name and Address of Issuing Branch or Office] Beneficiary: \_\_\_\_\_ [Name and Address of Procuring Entity]  
Date: \_\_\_\_\_

ADVANCE PAYMENT GUARANTEE No.: \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called "the Consultant") has entered into Contract No. \_\_\_\_\_ [reference number of the contract] dated \_\_\_\_\_ with you, for the provision of \_\_\_\_\_ [brief description of Services] (herein after called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of \_\_\_\_\_ [amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] here by irrevocably undertake to pay you any sum or sums not exceeding in total an amount of \_\_\_\_\_ [amount in figures] () [amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number \_\_\_\_\_ at \_\_\_\_\_ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made

Full repayment of the amount of the advance payment, or on the day of \_\_\_\_\_, <sup>2</sup> whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

*[Signature]*

***Note:** All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.*

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## PREFACE

This Section includes a Time-Based Contract. It includes General Conditions of Contract (“GCC”) that shall not be modified, and Special Conditions of Contract (“SCC”). The SCC include clauses specific to each contract to supplement, but not over-write or otherwise contradict, the General Conditions of Contract.

Time-Based Contract. This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and Consultant's remuneration is determined on the basis of the time actually spent by the Consultant in carrying out the Services and is based on (i) agreed upon unit rates for the Consultant's experts multiplied by the actual time spent by the experts in executing the assignment, and (ii) reimbursable expenses using actual expenses and/or agreed unit prices. This type of contract requires the Procuring Entity to closely supervise the Consultant and to be involved in the daily execution of the assignment.

The template is designed for use in assignments with consulting firms and shall not be used for contracting of individual experts. In some consultancy assignments such as design and construction supervision, both Lump-Sum and Time- Based Contracts are used and signed with the Consultant. In that case, the Lump-Sum Contract would apply for the design part of the Services while the construction supervision part would be based on a Time-Based Contract. In such event; both types of contracts shall be signed at the same time.

In case a Time-Based Contract is not used, please delete the contract template for time-based contract before issuance of the RFP to Consultants.

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<sup>1</sup>The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as Specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

<sup>2</sup>Insert the expected expiration date. In the event of an extension of the time for completion of the Contract the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the pen ultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”

# CONTRACT FOR CONSULTANT'S SERVICES

## II. TIME-BASED CONTRACT

Consulting Services for:

Contract No.: \_\_\_\_\_

Contract Description: \_\_\_\_\_

between *[Name of the Procuring Entity]* and

*[Name of the Consultant]*

Date:

## II: FORM OF CONTRACT-TIME-BASED

(Text in brackets [ ] is optional; all notes should be deleted in the final text)

This CONTRACT (hereinafter called the “Contract”) is made the [number] day of the month of [month], [year], between, on the one hand, [name of Procuring Entity] (herein after called the “Procuring Entity”) and, on the other hand, [name of Consultant] (hereinafter called the “Consultant”).

*[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: “... (herein after called the “Procuring Entity”) and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Procuring Entity for all the Consultant’s obligations under this Contract, namely, [name of member] and [name of member] (hereinafter called the “Consultant”).]*

### WHEREAS

- a) the Procuring Entity has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- b) the Consultant, having represented to the Procuring Entity that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
- c) The Procuring Entity has set aside a budget and funds towards the cost of the services and intends to apply a portion of the funds to eligible payments under the Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached here to shall be deemed to form an integral part of this Contract:
  - a) The General Conditions of Contract;
  - b) The Special Conditions of Contract;
  - c) Appendices:
    - Appendix A: Terms of Reference
    - Appendix B: Key Experts
    - Appendix C: Remuneration Cost Estimates
    - Appendix D: Reimbursable Cost Estimates
    - Appendix E: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract; Appendix A; Appendix B; Appendix C and Appendix D; Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Procuring Entity and the Consultant shall be as set forth in the Contract, in particular:
  - a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
  - b) The Procuring Entity shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties here to have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of \_\_\_\_\_ [Name of Procuring Entity] [Authorized Representative of the Procuring Entity—name title and signature]

For and on behalf of \_\_\_\_\_ [Name of Consultant or Name of a Joint Venture] [Authorized Representative of the Consultant—name and signature]

*[Note: For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]*

For and on behalf of each of the members of the Consultant..... [insert the name of the Joint Venture]  
[Name of the lead member]  
[Authorized Representative on behalf of a Joint Venture] [add signature blocks for each member if all are signing]

## Section 8: General Conditions of Contract

### A. GENERAL PROVISIONS

#### 1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- a) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
  - b) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the Selected Consultant.
  - c) “Consultant” means a legally - established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
  - d) “Contract” means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
  - e) “Day” means a working day unless indicated otherwise.
  - f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC11.
  - g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
  - h) “Foreign Currency” means any currency other than the Kenya Shilling.
  - i) “GCC” means these General Conditions of Contract.
  - j) “Government” means the government of Kenya.
  - k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
  - l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken in to account in the technical evaluation of the Consultant's proposal.
  - m) “Local Currency” means the Kenya Shilling.
  - n) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
  - o) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both.
  - p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
  - q) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
  - r) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
  - s) “Third Party” means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

#### 2. Relationship between the Parties

- 1.3 Nothing contained here in shall be construed as establishing a relationship of master and servant or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by the moron their behalf here under.

#### 2 Law Governing Contract

- 2.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

### **3 Language**

- 3.1 This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

### **4 Headings**

- 4.1 The headings shall not limit, alter or affect the meaning of this Contract.

### **5 Communications**

- 5.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC4. Any such notice, request or consent shall be deemed to have been given nor made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.
- 5.2 A party may change its address for notice here under by giving the other Party any communication of such change to the address specified in the SCC.

### **6 Location**

- 7.1. The Services shall be performed at such locations as are specified in Appendix A here to and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

### **7 Authority of Member in Charge**

- 7.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

### **9. Authorized Representatives**

- 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

### **10 Corrupt and Fraudulent Practices**

- 10.1 The Government requires compliance with its policy and laws in regard to corrupt and fraudulent or prohibited practices as set forth in its laws and policies.

#### **a. Commissions and Fees**

- 10.2 The Procuring Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or the other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract by the Procuring Entity and/or sanctions by the PPRA.

Commencement, Completion, Modification and Termination of Contract.

### **11 Effectiveness of Contract**

- 11.1 This Contract shall come into force and effect on the date (the "Effective Date") of the Procuring Entity's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

### **12 Termination of Contract for Failure to Become Effective**

- 12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty-two (22) days written notice to the other Party, declare this contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

### **13 Commencement of Services**

- 13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

## **14. Expiration of Contract**

- 14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

## **15. Entire Agreement**

- 15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

## **16. Modifications or Variations**

- 16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

- 16.2 **In cases of substantial modifications or variations.**

## **17. Force Majeure**

### **a. Definition**

- 17.1 For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations here under impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2 Force Majeure shall not include (i) any event which is caused by then negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations here under.
- 17.3 Force Majeure shall not include in sufficiency of funds or failure to make any payment required here under.

### **b. No Breach of Contract**

- 17.4 The failure of a Party to fulfill any of its obligations here under shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

### **c. Measures to be taken**

- 17.5 A party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 17.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 17.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Procuring Entity, shall either:
- a demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and

necessarily incurred, and, if required by the Procuring Entity, in reactivating the Services; or

- b Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 47 & 48.

## **18 Suspension**

18.1 The Procuring Entity may, by written notice of suspension to the Consultant, suspend all payments to the Consultant here under if the Consultant fails to perform for many of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

## **19 Termination**

19.1 This Contract may be terminated by either Party as per provisions set up below:

### **a By the Procuring Entity**

19.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- a If the Consultant fails to remedy a failure in the performance of its obligations here under, as specified in a notice of suspension pursuant to Clause GCC 18;
- b If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- c If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 48.1;
- d If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- e If the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- f If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Procuring Entity determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

### **b By the Consultant**

19.1.3 The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Procuring Entity, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- a If the Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 48.1 within forty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- b If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- c If the Procuring Entity fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 48.1.
- d If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have

subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

**c. Cessation of Rights and Obligations**

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties here under shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

**d. Cessation of Services**

19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

**e. Payment upon Termination**

19.1.6 Upon termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- a remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
- b In the case of termination pursuant to paragraphs (d)and(e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

**C. OBLIGATIONS OF THE CONSULTANT**

**20 General**

**a. Standard of Performance**

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Procuring Entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

**b. Law Applicable to Services**

20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.

20.5 Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in Kenya when

- a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
- b by an act of compliance with a decision of the United Nations Security Council taken under Chapter

- 20.6 The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

## **21 Conflict of Interests**

- 21.1 The Consultant shall hold the Procuring Entity's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

### **a Consultant Not to Benefit from Commissions, Discounts, etc.**

- 21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations here under, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

- 21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, works or services, shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.

### **b Consultant and Affiliates Not to Engage in Certain Activities**

- 21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

### **c Prohibition of Conflicting Activities**

- 21.1.4 The Consultant shall not engage and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

### **d Strict Duty to Disclose Conflicting Activities**

- 21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

## **22 Confidentiality**

- 22.1 Except with the prior written consent of the Procuring Entity, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or because of, the Services.

## **23 Liability of the Consultant**

- 23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

## **24 Insurance to be taken out by the Consultant**

- 24.1 The Consultant (I) shall take out and maintain and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.

## **25 Accounting, Inspection and Auditing**

- 25.1 The Consultant shall keep and shall make all reasonable effort to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.
- 25.2. The Consultant shall permit and shall cause its Sub-consultants to permit, the PPRA and/or persons appointed by the PPRA to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Consultant's attention is drawn to Clause GCC10 which provides, interlaid, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the PPRA's prevailing sanctions procedures.)

## **26 Reporting Obligations**

- 26.1 The Consultant shall submit to the Procuring Entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

## **27 Proprietary Rights of the Procuring Entity in Reports and Records**

- 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Procuring Entity in the course of the Services shall be confidential and become and remain the absolute property of the Procuring Entity. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Procuring Entity.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements, and the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

## **28 Equipment, Vehicles and Materials**

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Procuring Entity, or purchased by the Consultant wholly or partly with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure the material at the expense of the Procuring Entity in an amount equal to their full replacement value.
- 28.2 Any equipment or materials brought by the Consultant or its Experts into, as applicable.

## **D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS**

### **29 Description of Key Experts**

- 29.1 The title, agreed job description, minimum qualification and time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.
- 29.2 If required to comply with the provisions of Clause GCC 20 a, adjustments with respect to the estimated time- input of Key Experts set forth in Appendix B may be made by the Consultant by a written notice to the Procuring Entity, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC41.2.

29.3 If additional work is required beyond the scope of the Services specified in Appendix A, the estimated time-input for the Key Experts may be increased by agreement in writing between the Procuring Entity and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GCC41.1, the Parties shall sign a Contract amendment.

### **30 Replacement of Key Experts**

30.1 Except as the Procuring Entity may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forth with provide as are placement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

### **31 Approval of Additional Key Experts**

31.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their Curricula Vitae (CVs). If the Procuring Entity does not object in writing (stating the reasons for the objection) within twenty-two (22) days from the date of receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Procuring Entity.

### **32 Removal of Experts or Sub-consultants**

32.1 If the Procuring Entity finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert or Sub-consultant has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice while performing the Services, the Consultant shall, at the Procuring Entity's written request, provide a replacement.

32.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Procuring Entity to be incompetent or incapable in discharging assigned duties, the Procuring Entity, specifying the grounds therefore, may request the Consultant to provide a replacement.

32.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Procuring Entity.

### **33 Replacement/ Removal of Experts–Impact on Payments**

33.1 Except as the Procuring Entity may otherwise agree, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

### **34 Working Hours, Overtime, Leave, etc.**

34.1 Working hours and holidays for Experts are set forth in Appendix B. To account for travel time to/from Kenya, experts carrying out Services inside Kenya shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, Kenya as is specified in Appendix B.

34.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix B, and the Consultant's remuneration shall be deemed to cover these items.

34.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

## **E. Obligations of the Procuring Entity**

### **35 Assistance and Exemptions**

35.1 Unless otherwise specified in the SCC, the Procuring Entity shall use its best efforts to:

- a Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.

- b Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the Services under the Contract.
- c Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
- d Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- e Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Kenya according to the applicable law in Kenya.
- f Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Kenya, of bringing into Kenya reasonable amounts of foreign currency for the purposes of the services or for the personal use of the Experts and of withdrawing any such amounts as may be earned there in by the Experts in the execution of the Services.
- g Provide to the Consultant any such other assistance as may be specified in the SCC.

### **36 Access to Project Site**

- 36.1 The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Procuring Entity will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **37 Change in the Applicable Law Related to Taxes and Duties**

- 37.1 If, after the date of this Contract, there is any change in the applicable law in Kenya with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC41.1

### **38 Services, Facilities and Property of the Procuring Entity**

- 38.1 The Procuring Entity shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.
- 38.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

### **39 Counterpart Personnel**

- 39.1 The Procuring Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Procuring Entity with the Consultant's advice, if specified in Appendix A.
- 39.2 If counterpart personnel are not provided by the Procuring Entity to the Consultant as and when specified in Appendix A, the Procuring Entity and the Consultants shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Procuring Entity to the Consultant as a result thereof pursuant to Clause GCC 41.3.
- 39.3 Professional and support counterpart personnel, excluding Procuring Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

## **40 Payment Obligation**

40.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make such payments to the Consultant and in such manner as is provided by GCCF below.

### **A. PAYMENTS TO THE CONSULTANT**

#### **41 Ceiling Amount**

41.1 An estimate of the cost of the Services is set forth in Appendix C (Remuneration) and Appendix D ([Reimbursable expenses]).

41.2 Payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC.

41.3 For any payments in excess of the ceilings specified in GCC 41.2, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that evokes such amendment.

#### **42 Remuneration and Reimbursable Expenses**

42.1 The Procuring Entity shall pay to the Consultant

(i) remuneration that shall be determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and

(ii) reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services.

42.2 All payments shall be at the rates set forth in Appendix C and Appendix D.

42.3 Unless the SCC provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.

42.4 The remuneration rates shall cover:

(i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads),

(ii) the cost of backstopping by home office staff not included in the Experts 'list in Appendix B,

(iii) the Consultant's profit, and

(iv) any other items as specified in the SCC.

42.5 Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Procuring Entity, once the applicable remuneration rates and allowances are known.

#### **43 Taxes and Duties**

43.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.

#### **44 Currency of Payment**

44.1 Any payment under this Contract shall be made in the currency or currencies specified in the SCC.

#### **45 Mode of Billing and Payment**

45.1 Billing and payments in respect of the Services shall be made as follows:

- a Advance payment. Within the number of days after the Effective Date, the Procuring Entity shall pay to the Consultant an advance payment as specified in the SCC. Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Procuring Entity in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix E. The advance payments will be set off by the Procuring Entity in equal installments against the statements for the number of months of the Services specified in the SCC until said advance payments have been fully setoff.
- b The Itemized Invoices. As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the SCC, the Consultant shall submit to the Procuring Entity, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the SCC. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.
- c The Procuring Entity shall pay the Consultant's invoices within sixty (60) days after the receipt by the Procuring Entity of such itemized invoices with supporting documents. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments.
- d The Final Payment: The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the Procuring Entity and the final report and final invoice shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Procuring Entity has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) Calendar month s after receipt t by the Procuring Entity of a final report and a final invoice approved by the Procuring Entity in accordance with the above.
- e All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- f With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations here under.

**46 Interest on Delayed Payments**

- 46.1 If the Procuring Entity had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 45.1(c), interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

**G. Fairness and Good Faith**

**47 Good Faith**

- 47.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

**H. Settlement of Disputes**

**48 Amicable Settlement**

- 48.1 ThePartiesshallseektoresolveanydisputeamicablybymutualconsultation.
- 48.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will considerate and responds in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.



## 49 Dispute Resolution

- 49.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions in the SCC.

## SECTION 8: SPECIAL CONDITIONS OF CONTRACT

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Contract shall be construed in accordance with the law of Kenya
4.1	The language is English
6.1 and 6.2	<p>The addresses are <i>[fill in at negotiations with the selected firm]</i>:</p> <p>Procuring Entity: _____            Attention: _____            Facsimile: _____            E-mail: _____</p> <p>Consultant: _____            Attention: _____            Facsimile: _____            E-mail: _____</p>
8.1	<p><i>[Note: If the Consultant consists only of one entity, state “Not Applicable”;</i></p> <p><i>OR</i></p> <p><i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]</i></p> <p>The Lead Member on behalf of the JV is _____ <i>[insert name of the member]</i></p>
9.1	<p>The Authorized Representatives are:</p> <p>For the Procuring Entity: _____ <i>[name, title]</i>_____</p> <p>For the Consultant: _____ <i>[name, title]</i>_____</p>
11.1	The effectiveness conditions are the following: <i>[insert “Not Applicable” or list the conditions]</i>
12.1	<p>Termination of Contract for Failure to Become Effective:</p> <p>The period shall be _____ <i>[insert period, e.g.: four months]</i>.</p>
13.1	<p>Commencement of Services:</p> <p>The number of days shall be _____ <i>[e.g.: ten]</i>.</p> <p>Confirmation of Key Experts’ availability to start the Assignment shall be submitted to the Procuring Entity in writing as a written statement signed by each Key Expert.</p>
14.1	<p>Expiration of Contract:</p> <p>The period shall be _____ <i>[insert time period, e.g.: twelve months]</i>.</p>
23.1	<p>No additional provisions.</p> <p><i>[OR:</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>The following limitation of the Consultant’s Liability towards the Procuring Entity can be subject to the Contract’s negotiations:</p> <p>“Limitation of the Consultant’s Liability towards the Procuring Entity:  (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity’s property, shall not be liable to the Procuring Entity:  (i) for any indirect or consequential loss or damage; and  (ii) for any direct loss or damage that exceeds [insert a multiplier, e.g.: one, two, three] times the total value of the Contract;</p> <p>(b) This limitation of liability shall not  (i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;  (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law.</p>
24.1	<p>The insurance coverage against the risks shall be as follows:</p> <p><i>[Note: Delete what is not applicable except (a)].</i></p> <p>(a) Professional liability insurance, with a minimum coverage of _____ <i>[insert amount and currency which should be not less than the total ceiling amount of the Contract];</i></p> <p>(b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Procuring Entity’s country by the Consultant or its Experts or Sub-consultants, with a minimum coverage of <i>in accordance with the applicable law in Kenya</i></p> <p>(c) Third Party liability insurance, with a minimum coverage of <i>in accordance with the applicable law in the Procuring Entity’s country.</i></p> <p>(d) employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in the Procuring Entity’s country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant’s property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</p>
27.1	<p><i>[If applicable, insert any exceptions to proprietary rights provision _____]</i></p>
27.2	<p><i>[If there is to be no restriction on the future use of these documents by either Party, this Clause SCC 27.2 should be indicated “Not Applicable”. If the Parties wish to restrict such use, any of the following options, or any other option agreed to by the Parties, could be used:</i></p> <p><i>[The Consultant shall not use these [insert what applies..... documents and software..... ] for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.]</i></p> <p><i>OR</i></p> <p><i>[The Procuring Entity shall not use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the Consultant.]</i></p> <p><i>OR</i></p> <p><i>[Neither Party shall use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the other Party.]</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
35.1 (a) through (f)	<i>[List here any changes or additions to Clause GCC 35.1. If there are no such changes or additions, indicate “Not Applicable”]</i>
35.1(g)	<i>[List here any other assistance to be provided by the Procuring Entity. If there is no such other assistance, indicate “Not Applicable” for this Clause SCC 35.1(g).]</i>
41.2	<p>The ceiling in foreign currency is: _____ <i>[insert amount and currency]</i> <i>[indicate: inclusive or exclusive]</i> of local indirect taxes.</p> <p>The ceiling in local currency is: _____ <i>[insert amount and currency]</i> <i>[indicate: inclusive or exclusive]</i> of local indirect taxes.</p> <p>Any local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall <i>[insert as appropriate: “be paid” or “reimbursed”]</i> by the Procuring Entity <i>[insert as appropriate: “for” or “to”]</i> the Consultant.</p> <p>The amount of such taxes is _____ <i>[insert the amount as finalized at the Contract’s negotiations on the basis of the amounts provided by the Consultant in Form FIN-2 of the Consultant’s Financial Proposal.]</i></p>
42.3	Price adjustment on the remuneration ..... <i>[insert “applies” or “does not apply”]</i> <i>If the price adjustment applies, indicate the formula and procedure to be used for the adjustments.</i>
42.4(iv)	The other remuneration items are: _____
43.1	<p><i>[The Procuring Entity shall decide whether the Consultant (i) should be exempted from local tax, or (ii) should be reimbursed by the Procuring Entity for any such tax they might have to pay (or that the Procuring Entity would pay such tax on behalf of the Consultant)]</i></p> <p>The Procuring Entity warrants that <i>[choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations (Form FIN-2, part B “Local Taxes”):</i> <i>If ITC 16.3 indicates a tax exemption status, include the following: “the Consultant, the Sub-consultants and the Experts shall be exempt from”</i> <i>OR</i> <i>If ITC16.3 does not indicate the exemption and, depending on whether the Procuring Entity shall pay the withholding tax or the Consultant has to pay, include the following:</i> <i>“the Procuring Entity shall pay on behalf of the Consultant, the Sub-consultants and the Experts,” OR</i> <i>“the Procuring Entity shall reimburse the Consultant, the Sub-consultants and the Experts”]</i></p> <p>Any taxes, duties, fees, levies and other impositions imposed, under the Applicable Law in Kenya, on the Consultant, the Sub-consultants and the Experts</p>
44.1	The currency or currencies of payment shall be the following: <i>[list currency(ies) which should be the same as in the Financial Proposal, Form FIN-2]</i>
45.1(a)	<p><i>[The advance payment could be in either the foreign currency, or the local currency, or both; select the correct wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies)]</i></p> <p>The following provisions shall apply to the advance payment and the advance bank payment guarantee:</p> <p>(1) An advance payment [of <i>[insert amount]</i> in foreign currency] [and of <i>[insert amount]</i> in local currency] shall be made within <i>[insert number]</i> days after the Effective Date. The advance payment will be set off by the Procuring Entity in equal installments against the statements for the first <i>[insert number]</i> months of the Services until the advance payment has been fully set off.</p> <p>(2) The advance bank payment guarantee shall be in the amount and in the currency of the currency (ies) of the advance payment.</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
45.1(b)	<p><i>[Indicate “Not Applicable” for this Clause SCC 45.1(b) if the Consultant shall have to submit its itemized statements monthly. Otherwise, the following text can be used to indicate the required intervals:</i></p> <p>The Consultant shall submit to the Procuring Entity itemized statements at time intervals of _____ <i>[e.g. “every quarter”, “every six months”, “every two weeks”, etc.]</i>.</p>
45.1(e)	<p>The accounts are:</p> <p>for foreign currency: <i>[insert account]</i>.</p> <p>for local currency: <i>[insert account]</i>.</p>
46.1	<p>The interest rate is: <i>[insert rate]</i>.</p>
49	<p>Disputes shall be settled by arbitration by the Nairobi Centre for International Arbitrations.</p>

## SECTION 9: APPENDICES

### Appendix A – Terms of Reference

*[This Appendix shall include the final Terms of Reference (TORs) worked out by the Procuring Entity and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements; Procuring Entity's input, including counterpart personnel assigned by the Procuring Entity to work on the Consultant's team; specific tasks that require prior approval by the Procuring Entity.]*

*Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 in the Consultant's Proposal. Highlight the changes to Section 5 of the RFP]*

*If the Services consist of or include the supervision of civil works, the following action that require prior approval of the Procuring Entity shall be added to the Reporting Requirements” section of the TORs: Taking any action under a civil works contract designating the Consultant as Engineer”, for which action, pursuant to such civil works contract, the written approval of the Procuring Entity is required.*

### Appendix B - Key Experts

*[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]*

*[Specify Hours of Work for Key Experts: List here the hours of work for Key Experts; travel time to/ from Kenya; entitlement, if any, to leave pay; public holidays in Kenya that may affect Consultant's work; etc. Make sure there is consistency with Form TECH-6. In particular: one month equals twenty-two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.]*

### Appendix C – Remuneration Cost Estimates

#### 1. Monthly rates for the Experts:

*[Insert the table with the remuneration rates. The table shall be based on [Form FIN-3] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3] at the negotiations or state that none has been made.]*

#### 2. *[When the Consultant has been selected under Quality-Based Selection method, or the Procuring Entity has requested the Consultant to clarify the breakdown of very high remuneration rates at the Contract's negotiations also add the following:*

*“The agreed remuneration rates shall be stated in the attached Form: Breakdown of Agreed Fixed Rates in Consultant's Contract. This form shall be prepared on the basis of Appendix A to Form FIN-3 of the RFP “Consultants' Representations regarding Costs and Charges” submitted by the Consultant to the Procuring Entity prior to the Contract's negotiations.*

*Should these representations be found by the Procuring Entity (either through inspections or audits pursuant to Clause GCC 25.2 or through other means) to be materially incomplete or inaccurate, the Procuring Entity shall be entitled to introduce appropriate modifications in the remuneration rates affected by such materially incomplete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Procuring Entity before any such modification, (i) the Procuring Entity shall be entitled to offset any excess payment against the next monthly payment to the Consultants, or (ii) if there are no further payments to be made by the Procuring Entity to the Consultants, the Consultants shall reimburse to the Procuring Entity any excess payment within thirty (30) days of receipt of a written claim of the Procuring Entity. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with Clause GCC45. 1(d) of this Contract.”*

## BREAKDOWN OF AGREED FIXED RATES IN CONSULTANT'S CONTRACT

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency]) \*

Experts		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration rate per Working Month/Day/Year	Social Charges <sup>1</sup>	Overhead <sup>1</sup>	Subtotal	Profit <sup>2</sup>	Away from Home Office Allowance	Agreed Rate per Working Month/Day/Hour	Fixed per Working Month/Day/Hour <sup>1</sup>
<i>Home Office</i>									
<i>Work in Kenya</i>									

Expressed as percentage of 1

1 Expressed as percentage of 4

\* If more than one currency, add a table

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name and Title: \_\_\_\_\_



#### **APPENDIX D: REIMBURSABLE EXPENSES COST ESTIMATES**

1. {Insert the table with the Reimbursable Expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The foot note shall list such changes made to [FormFIN-4] at the negotiations or state that none has been made.}
2. All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount.

## APPENDIX E: FORM OF ADVANCE PAYMENTS GUARANTEE

[Note: See Clause GCC 41.2 and

SCC41.2] Bank Guarantee for Advance

Payment

\_\_\_\_\_ [Bank's Name and Address of Issuing Branch or Office]

Beneficiary: \_\_\_\_\_ [Name and Address of Procuring

Entity] Date: \_\_\_\_\_

ADVANCE PAYMENT GUARANTEE No. \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called "the Consultant") has entered into Contract No. \_\_\_\_\_

\_\_\_\_\_ [Reference number of the contract] dated \_\_\_\_\_ with you, for the provision of \_\_\_\_\_ [brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of \_\_\_\_\_ [Amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of \_\_\_\_\_ [amount in figures] () [amount in words]<sup>1</sup> upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number \_\_\_\_\_ at \_\_\_\_\_ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made

full repayment of the amount of the advance payment, or on the day of \_\_\_\_\_, 2\_\_\_\_, <sup>2</sup> whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that

date. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.

[Signature (s)]

**Note:** All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.

<sup>1</sup>The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as Specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

<sup>2</sup>Insert the expected expiration dates. In the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such

*extension, such request to be presented to the Guarantor before the expiry of the guarantee.”*

## SECTION 10. NOTIFICATION FORMS

### 1. NOTIFICATION OF INTENTION TO AWARD

Procuring Entity: \_\_\_\_\_ *[insert the name of the Entity]*

Contract title: \_\_\_\_\_ *[insert the name of the*

*contract]* RFP No: \_\_\_\_\_ *[insert RF Preference number]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) Request a debriefing in relation to the evaluation of your Proposal, and/or
- b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

The successful Consultant

Name:	<i>[insert name of successful Consultant]</i>
Address:	<i>[insert address of the successful Consultant]</i>
Contract price:	<i>[insert contract price of the successful Consultant]</i>

## i) Short listed Consultants

[INSTRUCTIONS: insert names of all short-listed Consultants and indicate which Consultant submitted Proposals. Where the selection method requires it, state the price offered by each Consultant as readout, and as evaluated. Include overall technical scores and scores assigned for each criterion and sub-criterion.]

	Submitted Proposal	Overall technical score	Financial Proposal Price	Evaluated Financial Proposal Price (If applicable)	Combined Score and ranking (if applicable)
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	.....	....	....	....	.....

(ii) **Reason/s why your Proposal was unsuccessful** [*Delete if the combined score already reveals the reason*].

[INSTRUCTIONS; State the reason/s why this Consultant's Proposal was unsuccessful. Do NOT include: (a) a point by point comparison with another Consultant's Proposal or (b) information that is marked confidential by the Consultant in its Proposal.]

(iii) **How to request a debriefing** [*This applies only if your proposal was unsuccessful as stated under point (3) above*].

**DEADLINE:** The deadline to request a debriefing expires at midnight on [*insert date*] (local time). You may request a debriefing in relation to the results of the evaluation of your Proposal. If you decide to request a debriefing your written request must be made within five (5) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Consultant, contact details; and address the request for debriefing as follows:

Attention: [*insert full name of person, if applicable*]

Title/position: [*insert title/position*]

Agency: [*insert name of Procuring Entity*]

Email address: [*insert email address*]

Fax number: [*insert fax number*] *delete if not used*

If your request for a debriefing is received within the 5 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fourteen (14) Business Days from the date of publication of the Contract Award Notice.

#### **(iv) How to Make a Complaint**

**DEADLINE:** The deadline for submitting a Procurement-related Complaint challenging the decision to award the contract expires on midnight, [*insert date*] (local time).

Provide the contract name, reference number, name of the Consultant, contact details; and address the Procurement-related Complaint as follows:

Attention: [*insert full name of person, if applicable*]

Title/position: [*insert title/position*]

Agency: [*insert name of Procuring Entity*]

Email address: [*insert email address*]

Fax number: [*insert fax number*] *delete if not used*

[At this point in the procurement process] [Upon receipt of this notification] you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

In summary, there are four essential requirements:

You must be an 'interested party'. In this case, that means a Consultant who has submitted a Proposal in this selection process and is the recipient of a Notification of Intention to Award.

The complaint can only challenge the decision to award the contract.

You must submit the complaint within the deadline stated above.

You must include, in your complaint, all of the information required by the Procuring Entity.

#### **(v) Standstill Period**

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).  
The Standstill Period lasts ---- (specify the number of business days as per Data Sheet 30.1) Business Days as specified in the Data Sheet after the date of transmission of this Notification of Intention to Award.  
The Standstill Period may be extended. This may happen where we are unable to provide a debriefing within the five (5) Business Day deadline. If this happens, we will notify you of the extension.

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of \_\_\_\_\_ *[insert the name of the Procuring Entity]*:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title/position: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**2 REQUEST FOR REVIEW**

**FORM FOR REVIEW(r.203(1))**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

**APPLICATION NO.....OF.....20.....**

**BETWEEN**

.....**APPLICANT**

**AND**

.....**RESPONDENT (Procuring Entity)**

Request for review of the decision of the..... (Name of the Procuring Entity of .....dated the...day of .....20.....in the matter of Tender No.....of .....20..... for .....(Tender description).

**REQUEST FOR REVIEW**

I/We.....,the above named Applicant(s), of address: Physical address.....P. O. Box No..... Tel. No.....Email ....., hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:

- 1.
- 2.

By this memorandum, the Applicant requests the Board for an order/orders that:

- 1.
- 2.

SIGNED .....(Applicant) Dated on.....day of ...../...20.....

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on.....day of .....20.....

**SIGNED**

**Board Secretary**

### 3. LETTER OF AWARD

*[use letterhead paper of the Procuring Entity] [date] \_\_\_\_\_ To: \_\_\_\_\_ [name and address of the winning Consultant] Subject: Notification of Award Contract No.....*

This is to notify you that your Proposal dated \_\_\_\_\_ *[insert date]* for consulting services for *[name of the assignment]* as negotiated with you on \_\_\_\_\_ for the contract amount of \_\_\_\_\_ *[Insert amount in numbers and words and name of currency]* is here by accepted by our agency.

You are requested to:(i) sign and return the draft negotiated Contract attached here with within eight (8) Business Days from the date of receipt of this notification; and (ii) furnish the additional information on beneficial ownership in accordance with the Data Sheet of ITC 32.1 within eight (8) days using the Beneficial Ownership Disclosure Form, included in Section 7 of the Request of Proposals.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

**Attachment:** *Draft Negotiated Contract*

## 4. BENEFICIAL OWNERSHIP DISCLOSURE FORM (Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

**INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM**

*This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.*

Tender Reference No.: \_\_\_\_\_ [insert identification  
no] Name of the Tender Title/Description: \_\_\_\_\_ [insert name of the  
assignment] to: \_\_\_\_\_ [insert complete name of Procuring Entity]

In response to the requirement in your notification of award dated \_\_\_ [insert date of notification of award] to furnish additional information on beneficial ownership: \_\_\_\_\_ [select one option as applicable and delete the options that are not applicable]

I) We here by provide the following beneficial ownership information.

### Details of beneficial ownership

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
<b>1.</b>	Full Name		Directly----- ----- % of shares	Directly..... .....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes ----No---- 2. Is this right held directly or indirectly?:  Direct..... .....  Indirect..... .....	1. Exercises significant influence or control over the Company body of the Company (tenderer)  Yes ----No-- -- 2. Is this influence or control exercised directly or indirectly?  Direct..... .....  Indirect..... ...
	National identity card number or Passport number					
	Personal Identification Number (where applicable)		Indirectly---- ----- % of shares	Indirectly----- % of voting rights		
	Nationality					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
Occupation or profession						

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
2.	Full Name		Directly----- ----- % of shares  Indirectly---- ----- % of shares	Directly..... .....% of voting rights  Indirectly----- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No----  2. Is this right held directly or indirectly?:  Direct..... .....  Indirect..... .....	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No-- --  2. Is this influence or control exercised directly or indirectly?  Direct..... .....  Indirect..... ...
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
Occupation or profession						
3.  e.t .c						

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer: .....\*[insert complete name of the Tenderer] \_\_\_\_\_

Name of the person duly authorized to sign the Tender on behalf of the Tenderer: \*\* [insert complete name of person duly authorized to sign the Tender]

Designation of the person signing the Tender: ..... [insert complete title of the person signing the Tender]

Signature of the person named above: ..... [insert signature of person whose name and capacity are shown above]

Date this ..... [insert date of signing] day of..... [Insert month], [insert year]

Bidder Official Stamp

Request for Proposal Reference No.: \_\_\_\_\_ [insert identification no] Name of the Assignment: \_\_\_\_\_ [insert name of the assignment] to: \_\_\_\_\_ [insert complete name of Procuring Entity]

In response to your notification of award dated \_\_\_\_\_ [insert date of notification of award] to furnish additional information on beneficial ownership: \_\_\_\_\_ [select one option as applicable and delete the options that are not applicable]

V) We here by provide the following beneficial ownership information.

**Details of beneficial ownership**

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Consultant (Yes / No)
[include full name (last, middle, first), nationality, country of residence]			

OR

ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Consultant.

*OR*

*iii) We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Consultant shall provide explanation on why it is unable to identify any Beneficial Owner]*

*Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.*

*Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Consultant]"*

*Name of the Consultant: .....\*[insert complete name of the Consultant] \_\_\_\_\_*

*Name of the person duly authorized to sign the Proposal on behalf of the Consultant: \*\* [insert complete name of person duly authorized to sign the Proposal]*

*Title of the person signing the Proposal: ..... [insert complete title of the person signing the Proposal]*

*Signature of the person named above: ..... [insert signature of person whose name and capacity are shown above]*

*Date signed ..... [insert date of signing] day of..... [Insert month], [insert year]*

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*\*In the case of the Proposal submitted by a Joint Venture specify the name of the Joint Venture as Consultant. In the event that the Consultant is a Joint venture, each reference to "Consultant" in the Beneficial Ownership Disclosure Form (including this Introduction there to) shall be read*

*to refer to the joint venture member.*

*\*\*Person signing the Proposal shall have the power of attorney given by the Consultant. The power of attorney shall be attached with the Proposal Schedules.*