

ORIGINAL

KenyattaNationalHospital



REQUEST FOR PROPOSAL

FOR

**CUSTOMER SATISFACTION
SURVEY**

KNH/RFP/05/2022-2023

TABLE OF CONTENTS

SECTION 1. LETTER OF REQUEST FOR PROPOSAL (RFP)	1
SECTION 2(A). INSTRUCTIONS TO CONSULTANTS (ITC)	2
A. GENERAL PROVISIONS	2
1. Introduction	3
3. Conflict of Interest	3
4. Unfair Competitive Advantage	4
5. Corrupt and Fraudulent Practices	4
6. Eligibility	4
B. PREPARATION OF PROPOSALS	5
7. General Considerations	5
8. Cost of Preparation of Proposal	5
9. Language	5
10. Documents Comprising the Proposal	5
11. Only One Proposal	5
12. Proposal Validity	6
13. Clarification and Amendment of RFP	6
14. Preparation of Proposals – Specific Considerations	7
15. Technical Proposal Format and Content	7
16. Financial Proposal	7
C. SUBMISSION, OPENING AND EVALUATION	8
17. Submission, Sealing, and Marking of Proposals	8
18. Sealing and Marking of Proposals	8
19. Confidentiality	9
20. Opening of Technical Proposals	9
21. Proposals Evaluation	9

22.	Evaluationof TechnicalProposals	9
23.	PublicOpeningofFinancial Proposals	10
24.	CorrectionofErrors	11
25.	Taxes	11
26.	Conversion to Single Currency.....	11
27.	AbnormallyLow Prices	11
28.	AbnormallyHigh Prices.....	11
29.	CombinedQualityand Cost Evaluation.....	12
30.	NotificationofIntentionto Award	12
31.	Stand stillPeriod.....	12

D.	NEGOTIATIONS AND AWARD.....	12
32.	Negotiations.....	12
33.	Conclusion of Negotiations.....	14
34.	Notification of Award.....	14
35.	Signing of Contract	14
36.	Contract Award Notice.....	14
	SECTION 2(B). DATA SHEET	15
	A. General Notes Provisions.....	15
	B. Preparation of Proposals.....	16
	C. Submission, Opening and Evaluation.....	18
	SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS.....	21
	FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM.....	21
	CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION.....	23
	FORM TECH-2: CONSULTANT'S ORGANIZATION AND EXPERIENCE.....	26
	FORM TECH-3: COMMENTS AND SUGGESTIONS.....	27
	FORM TECH-5: WORK SCHEDULE AND PLANNING FOR DELIVERABLES.....	28
	FORM TECH-6A: TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS.....	29
	FORM TECH-6B: CURRICULUM VITAE (CV).....	30
	FORM TECH-7: MANDATORY SUPPORT DOCUMENTS.....	31
	FORM TECH-8: SELF-DECLARATION FORMS.....	33
	FORM TECH-9: TENDER-SECURING DECLARATION FORM {r46 and 155(2)}.....	36
	SECTION 4. FINANCIAL PROPOSAL- STANDARD FORMS.....	37
	SECTION 4. FINANCIAL PROPOSAL- STANDARD FORMS.....	38
1.	FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM.....	38
2.	FORM FIN-2: SUMMARY OF COSTS	39
3.	FORM FIN-3A: BREAKDOWN OF REMUNERATION.....	40
4.	FORM FIN-3B: CONSULTANT'S REPRESENTATIONS REGARDING COSTS AND CHARGES	41
5.	Form 3C: Form for Consultant's Representations Regarding Costs and Charges.....	42
6.	Form FIN-3D: Breakdown of Remuneration Rates [for Time Based Contracts Only].....	43
7.	FORM FIN-4 BREAKDOWN OF REIMBURSABLE.....	44
	SECTION 5. TERMS OF REFERENCE.....	45
	SECTION 6. CONDITIONS OF CONTRACT AND CONTRACT FORMS.....	46

<u>CONTRACT FOR CONSULTANT'S SERVICES</u>	<u>47</u>
LUMP-SUM CONTRACT	48
FORM OF CONTRACT-LUMP-SUM	48
SECTION 7: GENERAL CONDITIONS OF CONTRACT.....	49
SECTION 8: SPECIAL CONDITIONS OF CONTRACT.....	60
SECTION 9: APPENDICES.....	66

APPENDIX A – TERMS OF REFERENCE.....	66
APPENDIX B – KEY EXPERTS.....	66
APPENDIX C – BREAKDOWN OF CONTRACT PRICE.....	
APPENDIX D – FORM OF ADVANCE PAYMENT GUARANTEE.....	66
TIME-BASED CONTRACT.....	68
FORM OF CONTRACT – TIME-BASED.....	69
SECTION 7: GENERAL CONDITIONS OF CONTRACT.....	70
SECTION 8: SPECIAL CONDITIONS OF CONTRACT.....	82
SECTION 9: APPENDICES.....	86
APPENDIX A – TERMS OF REFERENCE.....	86
APPENDIX B – KEY EXPERTS.....	86
APPENDIX C – REMUNERATION COST ESTIMATES – BREAKDOWN OF AGREED FIXED RATES IN CONSULTANT'S CONTRACT.....	86
APPENDIX D: REIMBURSABLE EXPENSES COST ESTIMATES.....	88
APPENDIX E: FORM OF ADVANCE PAYMENTS GUARANTEE.....	89
SECTION 10. NOTIFICATION FORMS.....	90
1. NOTIFICATION OF INTENTION TO AWARD.....	90
2. NOTIFICATION OF AWARD.....	94
3. BENEFICIAL OWNERSHIP DISCLOSURE FORM.....	95

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

TENDER DESCRIPTION: PROVISION OF CUSTOMER SATISFACTION SURVEY SERVICES

TENDER NUMBER: KNH/RFP/05/2022-2023

Kenyatta National Hospital invites sealed tenders from interested, qualified and competent audit firms possessing the requisite license, skills, resources and experience for the provision of CUSTOMER SATISFACTION SURVEY Services.

- 1.1 Interested eligible candidates may obtain further information from and inspect the tender documents at the KNH Administration Block- Supply Chain Management room 6 between **9:00am to 4:00pm**, Monday to Friday excluding Public Holidays.
- 1.2 The tender document can be accessed and downloaded from the Hospital's website www.knh.or.ke or Public Procurement Information Portal (PIIP) supplier portal (<http://www.tenders.go.ke>) free of charge.
- 1.3 Proposal document can also be obtained from the office of the **Director, Supply Chain Management** located at the Hospital's Main Administration **Block Room 6** from **Monday to Friday** between **9.00 a.m. to 4.00 p.m.** upon payment of a non-refundable fee of **Kshs.1,000.00** per document in the form of Cash, Bankers Cheque or Money order made payable to Kenyatta National Hospital..
- 1.4 The firms that download the document must arrange to forward their particulars/contacts to Procurement through email address procurement@knh.or.ke before the closing date for records and for the purposes of receiving clarifications and/or addendum, if any. Additional information relating to this tender, if any, will be available through the Hospital's website and PIIP from time to time.
- 1.5 Prices quoted should be inclusive of all taxes, must be expressed in Kenya shillings and shall remain valid for a period of 120 days from the closing date of the tender.
- 1.6 Tenders shall be **SECURELY BOUND (SPIRAL OR BOOK)**, paginated and serialized in the correct sequence. Duly completed RFP documents, in plain sealed envelope marked; "CUSTOMER SATISFACTION SURVEY Services.
- 1.7 **FIRMS): KNH/RFP/05/2022-2023** should be returned and deposited in the Tender Box situated at the Supply Chain Department entrance at the Administration Block on or before **27/10/2022 at 10.00am.**

**CHIEF EXECUTIVE
OFFICER, KENYATTA NATIONAL H
OSPITAL, P.O. BOX 20723- 00202,
NAIROBI.**

The Technical and Financial proposals should be enclosed in separate envelopes clearly marked as shown below before enclosure in an outer envelope:

Technical proposal: RFP for the provision of CUSTOMER SATISFACTION SURVEY Services.

i.

Financial proposal: RFP for the provision of CUSTOMER SATISFACTION SURVEY Services.

Technical Proposals will be opened immediately thereafter in the presence of bidders or representatives who choose to attend at

KNH Administration Block-Supply Chain Management entrance.

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 provide 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 forms 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
 - l) 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.
- m) “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.

- n) “ITC” (this Section 2 of the RFP) means the Instructions to Consultants that provide the Consultants with all information needed to prepare their Proposals.
- o) “Letter of RFP” means the letter of invitation being sent by the Procuring Entity to the Consultants.
- p) “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.
- q) “Proposal” means the Technical Proposal and the Financial Proposal of the Consultant.
- r) “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.
- s) “RFP” means the Request for Proposal to be prepared by the Procuring Entity

for the selection of Consultants.

- t) "Services" means the work to be performed by the Consultant pursuant to the Contract.
- u) "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 Consultants 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-consultingservices: 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-consultingservices. 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. A JV 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

- 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 its 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 procurements 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.
 - b) Prohibitions- Firms and individuals of a country or goods in a country may be 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 thereby 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 ITC 5.

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 Consultants 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 the 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 amendments shall be sent to all invited Consultants and will be binding on them. The Consultants shall acknowledge receipt of all 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 into 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 long as 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.

16.2 Price Adjustment

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.

16.3 Taxes

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.

16.4 Currency of Proposal

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.

16.5 Currency of Payment

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 assigned 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 Proposal 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 27/10/2022 at 10:00am**. 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 enclosed 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 ITC 11;
 - 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

assumes 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 Consultants 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 valuator 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 any way after the proposal submission deadline except as permitted under ITC 12.7. 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 expertshavenotengaged 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 expert shall 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.

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 Proposal 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.

23. 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.

24. 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 invoices (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.

25. Conversion to Single Currency

25.1 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.

26. Abnormally Low Prices

- 26.1 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.
- 26.2 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 and responsibilities and any other requirements of the RFP document.
- 26.3 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.

27. Abnormally High Prices

27.1 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.

27.2 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 for 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.

28.2 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.

28. Combined Quality and Cost Evaluation

28.1 Quality and Cost Based Selection (QCBS) Method

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.

28.2 Fixed Budget Selection (FBS) Method

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.

28.3 Least Cost Selection (LCS) Method

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.

28.4 Combined Technical and Evaluation Report

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.

29. Notification of Intention to enter into a Contract / Notification of Award

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 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;

30. Standstill Period

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

31. Negotiations

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

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

31.3 Availability of Key Experts

The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite 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.

Notwithstanding the above, the substitution of 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.

31.4 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.

31.5 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.

a) 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.

b) Where QBS or CQS method 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 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 to open its financial proposal and negotiate the contract.

31.6 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.

31.7 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.

32. Conclusion of Negotiations

32.1 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.

32.2 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.

33. Letter of Award

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.

34. Signing of Contract

34.1 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.

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

35. Publication of Procurement Contract

- 35.1 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.
- 35.2 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:
- 35.3 The awarded Contract shall be published on the Procuring Entity's website with free access if available and in the official procurement tender portal.

SECTION 2(B). DATA SHEET

The following information for procurement of the services shall complement or amend the provisions of instructions to consultants in section 2. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the Data sheet, the provisions in the data herein shall prevail over those of the instructions to consultants.

A. GENERAL PROVISIONS	
Reference	
to ITC	
clause	
1(k)	Electronic system shall not be used
2.1	Name of the Procuring entity: Kenyatta National Hospital
1.8, 17.5 & 18.2	The consultant selection method is Quality Cost Based Selection method
	Bidders shall prepare one (1) of each proposal. The original of the Technical
	Proposal shall be placed in a sealed envelope clearly marked " TECHNICAL PROPOSAL ," while the original of the Financial Proposal shall be placed in another envelope, sealed and clearly marked " FINANCIAL PROPOSAL " with a
	warning: " DONOT OPEN WITH THE TECHNICAL PROPOSAL ". Both the
	Technical Proposal and Financial Proposal envelopes shall then be placed into an outer envelope and sealed. This outer envelope shall bear the Hospital's
	submission address, namely: The Chief Executive Officer, Kenyatta National Hospital, P.O. Box 20723 - 00202 Nairobi & deposited in the tender box situated at the Supply Chain Department entrance at the Administration Block.
2.3	A pre-proposal conference will not be held
2.4	Not applicable
3(IV)	6.2
	6.6

6.7

The Hospital's employees, committee members, board members and their relative (spouse and children) are not eligible

12.1

Joint ventures are allowed.

The list of debarred firms and individuals is available at PPRA's website www.ppra.go.ke or email complaints@ppra.go.ke

No margins of preference are allowed in the tender

The proposal must remain valid for **120 days** after the submission date. The Hospital may require this period to be extended where necessary.

13.1	
	22
14(c) and 26.2 16.2	
16.3	
16.4	
17.1	
17.5	
18.5	
20.1	

The Hospital will respond in writing to any request for clarification of the tender documents that it receives not later than **07/10/2022 at 10:00am**. The Hospital will respond at least three days to the deadline for the submission of tenders, prescribed by the Hospital.

Email for requesting clarification is procurement@knh.or.ke

The tenders submitted should be in Kenya Shillings (Ksh)

No contract variation within one

year from the contract signature date.

Price variation will

be based on

the prevailing consumer price

index

to provide

by Kenya National Bureau of Statistics and inflation rate as provided by the Central Bank of Kenya.

Quantity variations shall not exceed 15% of the original contract quantity.

Cumulative value of all contract variation should not exceed 25% of the original contract sum.

Information on the consultant's tax obligations can be found on the Kenya Revenue Authority's website www.kra.go.ke

The financial proposal cost should be expressed in **Kenya Shillings**

Submissions of Proposals electronically is not allowed

The consultant must submit

Technical proposal (one original & copy) Financial Proposal (one original & copy)

The Hospital must receive tenders not later than **27/10/2022 at 10:00am East African time**. Any proposal received after the closing date shall be returned unopened to the firm, which submitted it.

Technical Proposals will be opened immediately thereafter in the presence of bidders or representatives who choose to attend at situated at the Supply Chain Department entrance at the Administration Block.

Not applicable

The proposals accepted by the closing date shall be subjected to three (3) stages of evaluation process, namely:

- i. Mandatory Evaluation Stage-Pass/ Fail Basis
- ii. Technical Capacity Evaluation-80%
- iii. Financial Evaluation-25%

STAGE 1. MANDATORY EVALUATION CRITERIA

Bidders shall be required to provide the following and the evaluation will be on pass/fail basis:

a) MANDATORY REQUIREMENTS(MR) CRITERIA

Item	Mandatory Requirements(MR)	PASS/FAIL
MR1	Valid copy of Registration Certificate/Certificate of Incorporation	
MR2	Valid copy of tax compliance certificate	
MR3	Confidential Business Questionnaire duly filled, signed & stamped in the format provided	
MR4	Declaration that the firm has not been convicted of corrupt or fraudulent practices and that it will not engage in any corrupt or fraudulent practice	
MR5	Submission of original tender document properly BOUND (spiral or book) and PAGINATED in the correct sequence i.e. 1, 2, 3, 4,	
MR6	Anti-corruption Pledge duly signed and stamped in the format provided	
MR7	Original Bid bond provided of Ksh. 100,000.00 valid for 150 days from the date of RFP opening	

NB//: Failure to submit any one of the above mandatory requirements will lead to disqualification or failure. Only those firms who pass at the mandatory stage will proceed to the technical evaluation stage.

STAGE 2. TECHNICAL CAPACITY EVALUATION STAGE

A) Technical Evaluation Criteria

The bidders shall be evaluated on the basis of their responsiveness to the following information using the attached standard forms as per clause.

No	Criteria	Evidence	Points
1	Bids documents submitted and marked as required (spiral or book bound)		5
2	Specific Experience a. The firm should provide at least three (3) reference sites where they have undertaken similar assignments. 5 marks per proof. Max 15 marks	copies of contracts / proof for each assignment in large establishments.	15

3	<p>WorkPlanandMethodology</p> <p>Thefirmshouldprovidelogical,well-structuredworkplanconsistentwiththetimeframes andtermsofReferences ofthis RFPtodemonstrate:</p>		
	a.UnderstandingofTOR	Responseto TOR	10

	b. Technical Approach and Methodology including proposed concept design	Approach & Methodology	15
	c. Workplan	Workplan	10
	d. Organization and Team Composition	Organization structure	5
4	<p>Personnel</p> <p>Bidders should provide evidence of technical Training and Experience bidders' staff:</p> <p>a. The bidder should provide CV's of all Key Technical staffs who will be engaged in the assignment in format provided in the tender document</p> <p>b. As Evidence of relevant training, bidders should attach copies of professional certificates of the Key Technical Staffs in relevant areas of Expertise.</p> <p>c. Adequacy for the assignment: Demonstrate experience in similar assignments. Bidders should attach letters or reports of proof of staff having accomplished similar assignments</p>		<p>10</p> <p>10</p> <p>20</p>
	TOTAL		100

The Pass mark is 80%

FINANCIAL PROPOSAL

The financial proposal of the bidders that qualify at the technical evaluation stage shall be opened and evaluated.

The formula for determining the Financial Score (Sf) shall be as follows:-

$S_f = 100 \times F_m / F$ where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration.

1. Proposals will be 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; $T + P = 1$).

2. The weight to be given to the Technical and Financial scores for rankings shall be as follows: Technical Percentage, $T = S_t \% \times 0.75$ and Financial Percentage,

$P = S_f \% \times 0.25$, where St is the score by the firm under the Technical Evaluation criteria and Sf is the % score by the firm under

the Financial Evaluation criteria.

3. The combined technical and financial score, S, is calculated as follows: $S = T + P$. The firm achieving the highest combined technical and financial score, S, will be recommended for award and invitation for negotiations.

Total Bid Score

A Bidder's final scores will be the addition of a Bidder's technical evaluation scores and the Bidder's financial evaluation scores. Bidder's Total Scores = Bidder's Technical Scores + Bidder's Financial Scores. The technical and financial scores will be combined and the firm achieving the **HIGHEST COMBINED SCORES** will be considered for negotiation and award of the tender. This is under Quality Cost Based Selection (QCBS) method of consultancy.

Bids with arithmetic errors shall be disqualified at the financial evaluation stage. The tender sum as submitted and read out during the financial tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way as per guidance from (PPADA, Section 82 and ITT clause 24).

Standstill period shall be 14 days as per ITT clause 31

Payment Terms

Terms of payment will be Quarterly in arrears, after acceptance of the report by management, within 30 days of invoicing.

SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS

1. FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: *[Name and address of Procuring Entity]*

Dear Sirs:

We, the undersigned, offer to provide the 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 may be 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 ITC 3.
- d) We meet the eligibility requirements as stated in ITC 6, 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 ITC 5.
- 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 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

ywebsite) 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 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 Clause 12 and ITC Clause 29.3 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,
y,

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] response to the
in 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), completed 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, whichever 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 conflict 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 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) In compliance 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 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

2

PPRA or any other appropriate authority appointed by Government of Kenya to inspect 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.

TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

a) Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form.

A. Tenderer's details

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	
2	Name of the Tenderer	
3	Full Address and Contact Details of the Tenderer. 1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.	
4	Reference Number of the Tender	KNH/RFP/05/2022-2023
5	Date and Time of Tender Opening	27th October 2022 at 10.00 am.
6	Current Trade License No and Expiring date	
7	Maximum value of business which the Tenderer handles.	

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full _____

Age _____ Nationality _____

Country of Origin _____ Citizenship _____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				

3				
---	--	--	--	--

(d) Registered Company, provide the following details.

i) Private or public Company _____

ii) State the nominal and issued capital of the Company-

Nominal Kenya Shillings (Equivalent)

Issued Kenya Shillings (Equivalent)

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

SignDateStamp.....

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 **ten(10)** previous similar assignment successfully completed in the last **10 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*.

Assignment	Approx. value of the contract (Kshs.)
Country	Duration of assignment (months)
Name of procuring entity	Total no. of staff-months of the assignment
Contact address:	Approx. value of the services provided by your firm
Email	under the contract

Start date (month/year):	No of professional staff-months provided by associated consultants
Completion date:	
Role on assignment e.g. lead member	Name of senior professional staff of your firm involved and the functions performed

Narrative description of the assignment

3. FORM TECH-3: COMMENTS AND 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:DESCRIPTIONOFAPPROACH,METHODOLOGY,ANDWORKPLAN

FormTECH-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 TORs in 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 parts. 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. }

FORMTECH-5:WORKSCHEDULEANDPLANNINGFORDELIVERABLES

- 1 List the deliverables with the breakdown for activities required to produce them and other benchmarkssuchastheProcuringEntity'sapprovals.Forphasedassignments,indicate theactivities,deliveryofreports,andbenchmarkseparatelyforeach phase.
- 2 Durationofactivitiesshallbeindicated **in a form of a bar chart**.
3. Include a legend, if necessary, to help read the chart.

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
KEY EXPERTS														
K-1	{e.g., Mr. Abbbb}	[Team Leader]	[Home] [Field]	[2 month] [0.5 m]	[1.0] [2.5]	[1.0] [0]								
K-2														
K-3														
N														
										Subtotal				
NON-KEY														
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

6. FORMTECH-6A:TEAMCOMPOSITION,ASSIGNMENT, ANDKEYEXPERTS' INPUTS

For key experts, the input should be indicated individually for the same positions as required under ITC data sheet 21.2. Months are counted from the start of the assignment/mobilization.

7. FORMTECH-6B:CURRICULUMVITAE(CV)

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

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

Period	Employing organization and your title/position. Contact information for references	Country	Summary of activities performed relevant to the Assignment
Include dates, name of employing organization, and location of the assignment, and contact information of previous Procuring Entity's and employing organization (e.g., May 2010, Ministry of)	Include dates, name of employing organization, and location of the assignment, and contact information of previous Procuring Entity's and employing organization (e.g., May 2010, Ministry of)	Include dates, name of employing organization, and location of the assignment, and contact information of previous Procuring Entity's and employing organization (e.g., May 2010, Ministry of)	Include dates, name of employing organization, and location of the assignment, and contact information of previous Procuring Entity's and employing organization (e.g., May 2010, Ministry of)
Who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.	Who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.	Who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.	Who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.
	For references: Tel...../e-mail.....; Mr. Bbbbbb, deputy manager]		

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-5in which the Expert will be involved)	

Publications:LanguageSkills

(indicateonlylanguagesinwhichyoucanwork):

AdequacyfortheAssignment:

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.

{day/month/year}

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:MANDATORYSUPPORTDOCUMENTS

[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 FORMTECH 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 TechFORMTECH-1: TECHNICAL PROPOSALS SUBMISSION FORM).

FORMTECH-8:SELF-DECLARATION FORMS

FORMSD1

**SELFDECLARATIONTHATTHE
PERSON/TENDERERISNOTDEBARREDINTHEMATTEROF THE PUBLIC
PROCUREMENT AND ASSETDISPOSAL ACT 2015.**

I,....., ofPost OfficeBox..... beingaresidentof
..... in theRepublicof doherebymakea
statementasfollows: -

1. THATIamtheCompanySecretary/ChiefExecutive/ManagingDirector/PrincipalOfficer/Directorof
.....(Insertnameofthe Company)whoisaBidderinrespect of
TenderNo.
.....for.....(Inserttendertitle/description)for.....
(InsertnameoftheProcuringentity)and dulyauthorizedand competenttomakethis statement.
2. THATtheaforesaidBidder,itsDirectors
andsubcontractorshavenotbeendebarredfromparticipatingin procurement
proceedingunderPartIV oftheAct.
3. THATwhat is deponedtohereinaboveis truetothe bestof myknowledge,information and belief.

.....

.....(Title)

(Signature)

(Date)

BidderOfficialStamp

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's 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 hereby 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.....

FORMTECH-9:TENDER-SECURINGDECLARATIONFORM{r46and155(2)}

[TheBiddershallcompletethisForminaccordancewiththeinstructionsindicated]

Date:.....[insertdate (as day,month and year)ofTenderSubmission]

TenderNo. [insertnumberoftenderingprocess]

To [insertcompletenameofPurchaser]

I/We,theundersigned,declarethat:

1. I/Weunderstandthat,accordingtoyourconditions,bidsmustbesupportedbyaTender-SecuringDeclaration.
2. I /We accept that I/we will automatically be suspended from being eligible for tendering in any contract withthePurchaser or the period of time of[insert number of months or years] starting on[insert date],if we are in breach of ourobligation (s)under the bid conditions, because we–(a) have withdrawn our tender during the period of tender validityspecified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaserduring the period of bid validity,(i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish thePerformanceSecurity, inaccordancewiththe instructionstotenders.
3. I / We understand that this Tender Securing Declaration shall expire if we arenotthe successfulTenderer (s),upontheearlierof:
 - a) OurreceiptofacopyofyournotificationofthenameofthesuccessfulTenderer;or
 - b) ThirtydaysaftertheexpirationofourTender.
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 JointVenture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the TenderSecuringDeclarationshallbe inthenamesofallfuture partnersasnamedinthe letterofintent.

Signed:.....

Capacity/title(directororpartnerorsoleproprietor,etc.).....

Name:.....

Dulyauthorizedtosignthebidforandonbehalfof [insert completenameofTenderer]

Dated ondayof.....[Insertdateofsigning]

Sealorstamp

SECTION 4. FINANCIAL PROPOSAL-STANDARD FORMS

{Notes to Consultants 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

..... {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 ITC 24.2 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 ITC 12.1 Data Sheet.

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,

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:..... *{inserttheauthorizedrepresentative's phoneandfaxnumber,ifapplicable}*Email:
..... *{inserttheauthorizedrepresentative'semailaddress}*

{Forajointventure,eitherallmembersshallsignoronlytheleadmember/consultant,inwhichcasethepower of attorneytosign onbehalfof all members shall beattached}

FORM FIN-2: SUMMARY OF COSTS

Item	Cost			
	{Consultant must state the proposed Costs in accordance with ITC 16.4 of the Data Sheet; delete columns which are not used}			
	<i>{Insert Foreign Currency # 1}</i>	<i>{Insert Foreign Currency # 2, if used}</i>	<i>{Insert Foreign Currency # 3, if used}</i>	<i>{Insert Local Currency, if}</i>
Cost of the Financial Proposal				
Including:				
(1) Remuneration				
(2) Reimbursables				
Subtotal [Remuneration + Reimbursables]				
Taxes:				
{insert type of tax e.g., VAT or sales tax}				
{e.g., withholding tax on experts' remuneration}				
<i>{insert type of tax}</i>				
Total Taxes				
Total Cost of the Financial Proposal: {Should match the amount in Form FIN-1}				

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							

SECTION 5. TERMS OF REFERENCE FOR THE HOSPITAL WIDE CUSTOMER SATISFACTION SURVEY FY 2022/2023

1.0 Background

Kenyatta National Hospital (KNH) offers quality specialized health care to patients from all over Kenya, the Great Lakes Region, Southern and Central Africa as well as providing training facilities for the University of Nairobi (College of Health Sciences) and the Kenya Medical Training College (KMTTC). The hospital also conducts research either directly or through other collaborating institutions.

The KNH's vision is to be "A world class patient centered specialized care hospital". It is committed to optimizing patient experience through innovative healthcare; facilitate training and research; and participate in national health policy.

2.0 Scope and Objectives of the Customer Satisfaction Survey

Customers form part of the four integral business perspectives that are critical in the application of balanced scorecard in strategic management of organizations and therefore addressing their needs and satisfying them should be a continuous process. In order to enhance customer relationship and promote effective information flow, feedback from the customers is very important. In view of this therefore, the Hospital wishes to engage the services of a consultant to undertake the FY 2022/2023 Customer Satisfaction Survey. The consultant will carry out a transparent and objective customer satisfaction survey to determine the level of customer satisfaction.

The survey will cover all the areas of service delivery including corruption perception by the public within the Hospital.

The main objective of the survey is to assess patients, suppliers and other customers' perception of the level and quality of service delivery and whether their service expectations are being met by the Hospital. The survey will also establish the unmet service delivery needs and to recommend appropriate strategies to meet such needs, increased efficiency and customer satisfaction. Further, this should also aim at reviewing the shifting market dynamics and other emerging

developments within the Healthcare industry as whole with the aim of developing strategies to mitigate the situation that may appear to impact negatively on service delivery and/or KNH's business performance.

Specifically, the survey should:

- a. Determine the quality of service delivery as perceived by the patients, suppliers and other customers of the hospital;

- b. Develop a composite measure of patient satisfaction, suppliers satisfaction and other customers' satisfaction and use it to determine the current satisfaction index for the services provided and the overall rating of satisfaction for the whole hospital;
- c. Assess satisfaction with regard to waiting times, medical procedures and ease of getting appointments (access to services);
- d. Establish the extent, to which the hospital is adhering to the patients service delivery charter and identify the gaps in service delivery;
- e. Determine the perceived level of professionalism, integrity, and fairness of KNH staff in the course of performing their work;
- f. Identify the sources (types) and frequency of patients, suppliers and other customers complaints in regard to service delivery;
- g. Establish the effectiveness of complaints resolution and the current mechanism of addressing patients, suppliers and other customer complaints;
- h. Determine the level of public awareness on KNH services;
- i. Determine the public perception index on corruption in KNH using EACC guidelines
- j. Propose service improvement measures.

3.0 Methodology

The preferred methodology for customer Satisfaction survey is a mixed method approach that entails formulation of open and closed ended questions. The tool will use a like scale of 1-5 where 1 (strongly disagree) and 5 (strongly agree). Data management philosophy will include distribution of questionnaires to all the targets categories at random using proportionate model. It is expected that views and ideas on issues at hand will be shared and possible strategies to address them derived thereof.

3.1 Survey Instruments and Service Attributes

The consultant will develop a survey instrument which shall be submitted to the client for consideration and approval.

3.2 Preliminary Preparations

In undertaking the assignment, the consultant is expected to first understand the mission, vision, objectives and goals of KNH. Further, the consultant will analyze the strategic plan of KNH, the key challenges and emerging issues that are aligned to customer service delivery and expectations. The consultant shall study all the relevant secondary material, which shall include among others, documents used in the operational processes and any relevant statutory and regulatory guidelines.

3.3 Data Processing, Analysis and Reporting

The consultant will aggregate all the data that will emerge from the survey and other sources. A thorough analysis will then be done which will produce a report in prose, computer generated charts, graphs and tables.

4.0 Expectations, Tasks and responsibilities of the consultant

The following are some of the key expectations:

- i. Identify the specific needs of each of the Hospital's customer segments;
- ii. Analysis on the current customer satisfaction levels, implication and strategy for improvement;
- iii. Identify the gaps between the company's capabilities/ performance and the customers' requirements and develop appropriate mitigating strategies
- iv. Recommend appropriate strategies to enhance customer satisfaction levels, prioritize the proposed initiatives and outline target results;
- v. Produce draft reports and present them to the client for review
- vi. Produce a final report and do a management presentation.

The specific tasks to be performed by the consultant include:

- i. Review of the:
 - KNH Services
 - Infrastructure facilitating service provision
 - Operational processes in the various service delivery points
 - Service Delivery Charter
 - Previous survey's feedback to customers(recommendations)
 - Proposed survey parameters (not limited)
- ii. Develop survey tools
- iii. Present the survey tools to KNH for review and approval
- iv. Pilot-test the questionnaire to confirm adequacy and suitability for data collection
- v. Fine-tune the survey tools based on feed-back on the previous survey;
- vi. Train data collectors/ field assistants on administration of the survey tools and the data collection process- Senior consultants required for one-on-one interviews
- vii. Liaise with KNH team to determine an appropriate survey sample size (all customers are targeted)
- viii. Undertake analysis of data using the appropriate tools
- ix. Compile a detailed report; and
- x. Do a presentation of survey results to KNH Executive Management team

5.0 Expected Output

The expected outputs from this assignment include:

- i. Duly-filed questionnaires from customers as a proof that the survey was actually undertaken;

- ii. List of key stakeholders who participated;
- iii. Inception Report
- iv. Customer Satisfaction Gap analysis for each customer category.
- v. Draft customer satisfaction survey analysis indices namely Outpatient Customer Satisfaction Index, Inpatient Customer Satisfaction Index, supplier customer satisfaction index, Prime Care Inpatient Customer Satisfaction Index, Prime Care outpatient Customer Satisfaction Index, and Corruption Perception Index;
- i. Audio-Visual presentation to Management by the Consultant;
- vi. Final Bound copies of reports and CDs 12 sets each

The report should entail detailed information in the following areas, amongst others:

- i. What different customer segments expect from the company;
- ii. Procedures in and levels of customer interactions with the company and gaps existing in such;
- iii. Operational aspects that are critical to service delivery and require review;
- iv. How the company is performing from various perspectives;
- v. Level of customers satisfaction and what need to be done;
- vi. Areas that need improvement in regard to customer relations and service;
- vii. Key strengths of the company from the customer perspective;
- viii. Major weaknesses of the company from the customer perspective
- ix. Attributes that can be ranked and used for benchmarking in future surveys; and
- x. Overall customer satisfaction index for each service point and globally.

6.0 Delivery Schedule

The lead time for data collection and reporting is 8 weeks

7.0 Role of KNH

Nominate two staff from (planning and Marketing & communication department) who will liaise with the consultant for the duration of the consultancy.

Ensure the availability of all documents and reports of relevance for the assignment.

Make necessary arrangements to provide entry/exit passes for the visits of the Consultant or his/her personnel, if required, during the course of assignment.

8.0 Conceptual Framework

- i. Give a statement demonstrating the understanding of the concept
- ii. Provide the survey methodology

- iii. Provide a tentative work plan for job execution to demonstrate a clear understanding of the task's technicalities and process cycle

9.0 Human Resource Ability

The preferred experience of proposed key professionals is as follows:

I. Team Leader:

At least Master degree (MBA or MSC with a minimum 15 years' experience in Research, public health communication, and customer outreach program. Holder of PhD will be an added advantage.

II. Research Specialist:

Have minimum 10 years' experience in research and must possess a Master- level degree or a doctoral- level degree in a relevant health discipline with knowledge of research in health/ customer related fields. Specialist with experience working with large datasets, electronic health records, survey development, and field data collection management will have an added advantage.

III. Statistician:

At least Master's degree in Statistics or Economics with a minimum 5 years working experience in baseline surveys, data scrutiny and analysis, and report preparation. Assisting with study design (including sample size calculations) and developing appropriate statistical analysis plans for surveys; Determining methods for applying best practices and techniques for data collection and Translating statistical methodologies and results to non- statisticians

IV. Enumerators:

The consultant may appoint required number of enumerators having graduate degree in statistics, economics, actuarial science, mathematics and biometry.

N/B: Attach copies of the relevant qualification and experience

10.0 Requirement of Eligible Consultants

1. The lead consultant should provide CVs for other key staff where at least three (3) key personnel should have a blend of the relevant MA/MS or PhD qualifications in health research, statistics and communication specialists.
2. The firm must have carried out at least 5 similar surveys in the area of customer/patients satisfaction surveys.
3. The firm must have carried out related analytical work in Government institutions

11.0 Company Profile

- i. Attach company profile that includes the organization structure and staff establishments
- ii. Capacity statement in respect to task undertaking.

SECTION 6: CONDITIONS OF CONTRACT AND CONTRACT FORMS CONTRACT FOR CONSULTANT'S SERVICES

Lump-Sum Contract

ConsultingServices for:_____

ContractNo.:_____ContractDescription:_____

—

_____[Nam

eoftheProcuringEntity]And_____

_____[Nam

eoftheConsultant]Date:_____

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 fund to ward the cost of the Services and intend 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 hereto 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 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) theProcuringEntityshallmakepayments to theConsultantin accordancewith theprovisionsoftheContract.

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

- a) Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- b) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
- 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 agreements 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) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the selected Consultant.
- f) “Day” means a working day unless indicated otherwise.
- g) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- h) “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.
- i) “Foreign Currency” means any currency other than the currency of Kenya.
- j) “GCC” means these General Conditions of Contract.
- k) “Government” means the government of Kenya.
- l) “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.
- m) “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 Curriculum Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.

- n) “LocalCurrency” meanstheKenyaShillings,thecurrencyofKenya.
- o) “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.
- p) “Party” meansthe Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
- q) “SCC” meansthe Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.

- r) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- s) “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

2.1 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

3.1 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 hereunder 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 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 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 agent 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 thereto.

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 GCC19 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 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 is 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 overcome in the carrying out of its obligations hereunder.

17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

b. No Breach of Contract

17.4 The failure of a Party to fulfill any of its obligations hereunder 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 Consultants 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 for 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 thereunder 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 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

- 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 GCC 45.1 within forty-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 GCC 45.1.
- 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 GCC12 or GCC19 hereof, or upon expiration of this Contract pursuant to Clause GCC14, all rights and obligations of the Parties hereunder 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 inspection, 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 GCC19a 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 GCC27 or GCC28.

e. **Payment upon Termination**

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

- a) Payment for 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 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 GCCF (Clauses GCC38 through 42) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause

GCC21.1.3, 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 hereunder, 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 their 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 GCC13.

25 Accounting, Inspection and Auditing

25.1 The Consultants 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 details 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, inter alia, 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 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 KeyExperts.

30.2 Notwithstanding theabove, the substitution of Key Experts during Contract execution may beconsidered only based on the Consultant's written request and due to circumstances outside thereasonablecontroloftheConsultant,includingbutnotlimitedtodeathormedicalincapacity.Insuchcase, the Consultant shall forth with provide as a replacement, a person of equivalent or betterqualificationsand experience,andat thesame rateofremuneration.

31 RemovalofExpertsorSub-consultants

31.1 If the Procuring Entity finds that any of the Experts or Sub-consultant has committed serious misconductor hasbeenchargedwithhaving committeda criminalaction, or shall the Procuring EntitydeterminethatConsultant'sExpertofSubconsultanthave engagedincorrupt,fraudulent,collusive,coercive [or obstructive] practice while performing the Services, the Consultant shall, at theProcuringEntity'swrittenrequest,provideareplacement.

31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the ProcuringEntitytobeincompetentorincapableindischargingassignedduties,theProcuringEntity,specifyi ngthegrounds therefore, mayrequest theConsultant to provideareplacement.

31.3 AnyreplacementoftheremovedExpertsorSubconsultantsshallpossessbetterqualificationsandexperienc eand shall be acceptableto theProcuringEntity.

31.4 TheConsultant shall bearall costs arisingoutof or incidental toanyremoval and/or replacementofsuch Experts.

E. ObligationsoftheProcuringEntity

32 AssistanceandExemptions

31.1 Unlessotherwise specifiedin theSCC,the ProcuringEntityshalluseitsbest efforts to:

- a Assist the Consultant with obtaining work permits and such other documents as shall benecessaryto enable theConsultant to perform the Services.
- b Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligibledependents,allnecessaryentryandexitvisas,residencepermits,exchangepermitsandanyother documentsrequiredfortheirstayinKenyawhilecarryingouttheServicesundertheContract.
- c FacilitatepromptclearancethroughcustomsofanypropertyrequiredfortheServicesandofthepersonal effectsofthe Expert sandtheireligible dependents.
- d Issuetoofficials,agentsandrepresentativesoftheGovernmentallsuchinstructionsandinformation as may be necessary or appropriate for the prompt and effective implementation oftheServices.
- e Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant forthe 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.

32.2 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.

32.3 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 or 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 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.

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 GCC F 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 prices 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.

40 Currency of Payment

40.1 Any payment under this Contract shall be made in the currency(ies) of the Contract.

41 Mode of Billing and Payment

- 41.1 The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.
- 41.2 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 payments schedule stated in the SCC.
- 41.2.1 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 installment specified in the SCC until said advance payments have been fully set off.
- 41.2.2 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 foregoing process shall be repeated.
- 41.2.3 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 Service 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 foregoing process shall be repeated.
- 41.2.4 All payments under this Contract shall be made to the account of the Consultant specified in the SCC.
- 41.2.5 With the exception of the final payment under 41.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations hereunder.

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 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 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.

<i>Number of GC clause</i>	<i>AmendmentsofandsupplementstoclausesintheGeneralConditionsofcontract</i>
<i>1.1 (a)</i>	<i>Thecontractshall beconstruedinaccordancewith thelaws ofKenya</i>
<i>4.1</i>	<i>Thelanguage is english</i>
<i>6.1 &6.2</i>	<i>Theaddresses are(to be filled in atnegotiationswith theselected firm)</i> <i>Procuringentity:.....</i> <i>Attention.....</i> <i>Email.....</i> <i>Consultant.....</i> <i>Attention.....</i> <i>Email.....</i>
<i>8.1</i>	<i>Not applicable</i>
<i>9.1</i>	<i>TheAuthorizedrepresentativesare</i> <i>Procuringentity:Name.....Title.....</i> <i>Consultant:Name.....Title.....</i>
<i>11.1</i>	<i>Notapplicable</i>
<i>12.1</i>	<i>Terminationofcontractforfailuretobecomeeffective</i> <i>The time periodshall beone(1)month</i> <i>Commencementoftheservices</i>
<i>13.1</i>	<i>Thenumberofdaysshallbeseven(7)</i> <i>Confirmation ofkeyexpert'savailabilityto starttheassignmentshallbesubmittedto</i> <i>theprocuringentityin writingas awrittenstatement signedby</i>
<i>14.1</i>	<i>23.1</i> <i>24.1</i>
	<i>27.1</i>

Expirationofthecontract

[illegible]

		the procuring
		entityNotapplicabl
32.1athroughe	e	
32.3		Notapplicable
39.1		TheConsultant andExperts areresponsible formeetinganyand alltaxliabilitiesarisingoutof theContract.
41.2		AspertheproposedfinancialscheduleN otapplicable
41.2.1		
41.1.4	45.1	Disputes shall be settled by arbitration in accordance with the following provisions: 1. <u>Selection of Arbitrators.</u> 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: (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 there from, 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 such list or otherwise, a sole arbitrator for the matter in dispute. (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> . (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.
41.1.4		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. 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. 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/ or of the Government's country. For the purposes of this Clause, "home country" means any of:</i> (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/; or</i> (b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or (c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or (d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.

AppendixA–Termsof Reference

[Note: This Appendix shall include the final Terms of Reference (TORs) worked out by the ProcuringEntity andtheConsultantduring thenegotiations;datesforcompletionofvarioustasks;locationofperformancefordifferenttasks;detailedreporting requirementsandlistofdeliverablesagainstwhichthepaymentstotheConsultantwillbemade;ProcuringEntity'sinput,includingcounterpartpersonnelassignedbytheProcuringEntitytoworkontheConsultant'ssteam;specifictasks oractionsthatrequirepriorapprovalbytheProcuringEntity.

Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based ontheFormsTECH-1throughTECH-5oftheConsultant'sProposal.HighlightthechangestoSection5oftheRFP]

AppendixB-KeyExperts

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at theContract'snegotiations.Attach theCVs (updated andsignedbytherespectiveKeyExperts)demonstratingthequalifications ofKeyExperts.]

.....Appendix C–BreakdownofContractPrice

{Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall bebased on [Form FIN-3andFIN-4] of the Consultant's Proposal and reflect any changes agreed at theContract negotiations, if any. The footnote shall list such changes made to [FormFIN-3andFIN-4] at thenegotiations or state thatnonehas been made.}

Appendix D-Formof Advance PaymentGuarantee

[Note:See Clause GCC41.2.1 and SCC 41.2.1]

BankGuaranteeforAdvancePayment [Bank'sNameandAddressofIssuingBranchorOffice]
Beneficiary:[NameandAddressofProcuringEntity]Date:

ADVANCEPAYMENTGUARANTEENo.:

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

number of the contract] dated with you, *[brief description of Services]* (herein after called " the Contract").
for the provision of

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

[nameandaddressofbank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advancepayment 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, _____, 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.

CONTRACTFORCONSULTANT'SSERVICEST

IME-BASEDCONTRACT

ConsultingServicesfor:_____

ContractNo.:_____

ContractDescription:_____

between

_____ *[NameoftheProcuring Entity]*and

_____ *[NameoftheConsultant]*

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: “...(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] (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 apportion of the funds to eligible payments under the Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - a) The General Conditions of Contract;
 - b) 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 WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of [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][Nameoftheleadmember]

*[AuthorizedRepresentativeonbehalfofaJointVenture][addsignatureblocksforeachmemberifall
aresigning]*

APPENDIXE: FORM OF ADVANCE PAYMENT GUARANTEE

[Note: See Clause GCC 41.2 and

SCC 41.2] 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] (hereinafter 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] 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

_____ 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.*

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 RFP 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>

2. NOTIFICATION 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 hereby 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

3. BENEFICIAL OWNERSHIP DISCLOSURE FORM

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

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful Consultant. In case of joint venture, the Consultant 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 Consultant is any natural person who ultimately owns or controls the Consultant by 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*

Request for Proposal Reference No.:

[insert identification no] Name of the Assignment:

[insert name of the assignment] to:

[insert complete name of Procuring Entity]

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)
<i>[include full name (last, middle, first), nationality, country of residence]</i>			

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