KISII UNIVERSITY

PO BOX 408-40200 KISII, KENYA

Website www.kisiiuniversity.ac.ke

TENDER FOR:

SUPPLY AND DELIVERY OF DRUGS, DRESSINGS AND INFUSIONS

KSU/T/11/2024 /2025

DISPATCHED ON TUESDAY 29th OCTOBER 2024:

OPENING AND CLOSING DATE:
THURSDAY 14th NOVEMBER 2024:

11.30 AM

All correspondence to:
THE VICE CHANCELLOR
KISII UNIVERSITY
P.O. BOX 408-40200 KISII
E-MAIL: procurement@kisiiuniversity.ac.ke

TABLE OF CONTENTS:

Contents

KISII UNIVERSITY 1
TABLE OF CONTENTS: 2
INVITATION TO TENDER 2
PROCURING ENTITY: KISII UNIVERSITY 3
PART 1 - TENDERING PROCEDURES 5
PART1 - Tendering Procedures 9
PART 2 - Supply Requirements 9
PART 3 - Contract 9
10. **Language of Tender** 10
SECTION II - TENDER DATA SHEET (TDS) 26
SECTION III - EVALUATION AND QUALIFICATION CRITERIA 30
TECHNICAL EVALUATION 31
Financial Evaluation: 31
TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE 43
CERTIFICATE OF INDEPENDENT TENDER DETERMINATION 44
SELF-DECLARATIONFORMS 48
APPENDIX 1- FRAUD AND CORRUPTION 51
TENDERER INFORMATION FORM 54
MANUFACTURER'S AUTHORIZATION 73
PART 2 – SUPPLY REQUIREMENTS 75
PART 3 - CONTRACT 81
SECTION X - CONTRACT FORMS 100
2. REQUEST FOR REVIEW 105

INVITATION TO TENDER

PROCURING ENTITY: KISII UNIVERSITY

Invitation to Tender (ITT) No KSU/T/11/2024 - 2025.

CONTRACT NAME AND DESCRIPTION: TENDER FOR THE SUPPLY & DELIVERY OF DRUGS, DRESSINGS AND INFUSIONS FOR THE KISII UNIVERSITY

1. **Kisii University** invites sealed tenders for Supply & Delivery of Drugs, Dressings and Infusions.

2. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.

3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during ***office hours*** from ***8.00am*** to ***5.00 pm*** at the address given below.

4. A complete set of tender documents may be purchased upon payment of a non-refundable fee of **Ksh. 1,000** at Kisii University Cash Office Main Campus.

5. Tender documents may be obtained electronically from the Website www.kisiiuniversity.ac.ke or http://tenders.go.ke. Tender documents obtained electronically will be free of charge.

6. Tender documents may be viewed and downloaded for free from the website www.kisiiuniversity.ac.ke or http://tenders.go.ke.Tenderers who download the tender document **must forward** their particulars form immediately to procurement@kisiiuniversity.ac.ke to facilitate any further clarification or addendum.

7. All Tenders must be accompanied by a ***Tender* Security** of **Kshs. 50,000.00**

8. Completed tenders must be delivered to the address below on or before ***THURSDAY NOVEMBER 14th 2024*** at ***11.30 am.*** Electronic Tenders ***will not*** be permitted.

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

10. The Tenderer shall chronologically serialize all pages of the tender documents submitted.

11. Late tenders will be rejected.

12. The addresses referred to above are:

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

1) Kisii University

2) P.O Box 408 - 40200 Kisii-Administration Block

B. Address for Submission of Tenders

1) Kisii University

2) P.O Box 408 – 40200 Kisii.

3) Tender Box, Administration Building

C. Address for Opening of Tenders

1) Kisii University

2) 408 -40200 -KISII

SUPPLIER DETAILS FORM 1

1. Name of Company…….
2. Physical Location (i.e.) Town /County…….
3. Street/Road……
4. Building Name…….....
5. Box Number……
6. Email address…….
7. Telephone Number……
8. Name/s of majority beneficial owners

……
..……..
…….

9. Business registration number…… (As indicated in the certificate of incorporation).
10. Agpo Certificate number for bidders registered under AGPO……
11. KRA Pin Number……
12. I …… (Enter your name), I wish to confirm the information provided above is true. I am not member or related to any member of staff of Kisii University.

SIGNATURE …… DATE…….....STAMP…….……

PART 1 - TENDERING PROCEDURES

SECTION I - INSTRUCTIONS TO TENDERERS

A General

1. **Scope of Tender**

1.1 In connection with this Invitation to Tenderer (ITT), the Procuring Entity issues this tendering document for the supply of Health Goods (pharmaceuticals, vaccines, and condoms and Related Services incidental thereto as specified in Section V, Schedule of Requirements. The name, identification and number of items or lots (contracts) of this ITT are specified **in the TDS.**

2. Definitions

Throughout this tendering document:

a) The term "in writing" means communicated in written form (e.g.by, e-mail including if specified **in the TDS**, distributed or received through the electronic procurement system used by the Procuring Entity) with proof of receipt;

b) If the contexts or requires, "singular" means "plural" and vice versa; and "Day" mean scale day, unless otherwise specified as "Business Day." A Business Day is any day that is an official working day of the Procuring Entity. It excludes the Procuring Entity's official public holidays.

3. Fraud and Corruption

3.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62"Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

3.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions maybe imposed to this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

3.3 Unfair Competitive Advantage –Fairness and transparency in the tender process require that the firms 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 the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

3.4 Tenderers shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, records and other documents relating to any initial selection process, prequalification process, tender submission, proposal submission, and contract performance (in the case of award), and to have them audited by auditors appointed by the Procuring Entity.

4. Eligible Tenderers

4.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT4.6 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a Form of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contracting

accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Tendering process and, in the event the JV is awarded the Contract, during contract execution. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the **TDS.**

4.2 Public Officers of the Procuring Entity, their spouse, child, parent, brother, sister, child, parent 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.

4.3 A Tenderer shall not have a conflict of interest. Any Tenderer found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest for the purpose of this Tendering process, if the Tenderer:

a Directly or indirectly controls, is controlled by or is under common control with another Tenderer; or

b Receives or has received any direct or indirect subsidy from another Tenderer; or

c Has the same legal representative as another Tenderer; or

d Has a relationship with another Tenderer, directly or through common third parties, that puts it in a position to influence the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or

e or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods that are the subject of the Tender; or

f or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity or Procuring Entity for the Contract implementation; or

g would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the TDS ITT2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or

h has a close business or family relationship with a professional staff of the Procuring Entity who: (i) are directly or indirectly involved in the preparation of the tendering document or specifications of the Contract, and/or the Tender evaluation process of such Contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the Tendering process and execution of the Contract.

A firm that is a Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative Tenders. This includes participation as a sub-contractor. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a Tenderer or a JV member may participate as a sub-contractor in more than one Tender.

4.4 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT4.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case

maybe. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

4.5 A tenderer that has been debarred from participating in public procurements hall be ineligible to be prequalified for, initially selected for, tender for, propose for, or be awarded a contract during such period of time as the PPRA shall have determined. The list of debarred firms and individuals is available at **PPRA's website** info@ppra.go.ke or complaints@ppra.go.ke.

4.6 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the Procuring Entity, that they(i) are legally and financially autonomous (ii) operate under commercial law, and (iii)are not under supervision of the Procuring Entity.

4.7 A tenderer shall not be under suspension from tendering by the Procuring Entity as the result of the operation of a Tender–Securing Declaration or Proposal-Securing Declaration.

4.8 Firms and individuals may be ineligible if (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 or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

4.9 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided in for this purpose is be provided in *"SECTION III EVALUATION AND QUALIFICATIONCRITERIA, item9"*.

4.10 Pursuant to the eligibility requirements of ITT4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than51percent ownership by Kenyan citizens. The JV shall not subcontract to foreign firms more than10 percent of the contract price, excluding provisional sums.

4.11 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 tender, 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.

4.12 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax compliance clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

5. Eligible Goods and Related Services

5.1 All the Goods and Related Services to be supplied under the Contract may have their origin in any eligible country.

5.2 For purposes of this ITT, the term "goods" includes any goods that are the subject of this Invitation to Tender, and "Related Services" includes services such as transportation, insurance, commissioning and training.

5.3 The term "origin" means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

5.4 Any goods, works and production processes with characteristic that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

B. Contents of Tendering Document

6. Sections of Tendering Document

6.1 The tendering document consists of Parts1, 2, and 3, which includes all the sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT8.

PART 1 - Tendering Procedures

Section I-Instructions to Tenderers (ITT)
Section II-Tendering Data Sheet (TDS)
Section III-Evaluation and Qualification Criteria
Section IV-Tendering Forms

PART 2 - Supply Requirements

Section V - Schedule of Requirements

PART 3 - Contract

Section VI-General Conditions of Contract
Section VII-Special Conditions of Contract
Section VIII-Contract Forms

6.2 The Specific Procurement Notice-Invitation to Tender (ITT) notice issued by the Procuring Entity is not part of this tendering document.

6.3 Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the document, responses to requests for clarification, or Addenda to the tendering document in accordance with ITT10. Incase of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tendering document and to furnish with its Tender all information or documentation as is required by the tendering document.

7. Clarification of Tendering Document

7.1 A Tenderer requiring any clarification of the tendering document shall contact the Procuring Entity in writing at the Procuring Entity's address specified **in the TDS**. The Procuring Entity will respond in writing to any Invitation to clarification, provided that such request is received prior to the deadline for submission of Tenders within a period specified **in the TDS.** The Procuring Entity shall forward copies of its response to all Tenderers who have acquired the tendering document in accordance with ITT6.3, including a description of the inquiry but without identifying its source. If so specified **in the TDS**, the Procuring Entity shall also promptly publish its response at the web page identified **in the TDS**. Should the clarification result in changes to the essential elements of the tendering document, the Procuring Entity shall amend the tendering document following the procedure under ITT8 and ITT22.2.

8. Amendment of Tendering Document

8.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the tendering document by issuing addenda.

8.2 Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the Procuring Entity in accordance with ITT 6.3. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's webpage in accordance with ITT7.1.

8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT 22.2.

C. Preparation of Tenders

9. Cost of Tendering

9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

10. Language of Tender

10.1 The Tender, as well as all correspondence and documents relating to the Tender exchanged by the Tenderer and the Procuring Entity, shall be written in the English Language**.** Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate translation of their relevant passages into the English Language**,** in which case, for purposes of interpretation of the Tender, such translation shall govern.

11. Documents Comprising the Tender

11.1. The Tender shall comprise the following:

a) **Form of Tender** prepared in accordance with ITT12;
b) **Price Schedules**: completed in accordance with ITT 12 and ITT14;
c) **Tender Security** or **Tender-Securing Declaration**, in accordance with ITT19.1; d)
d) **Alternative Tender**, if permissible, in accordance with ITT13;
e) **Authorization**: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 20.3;
f) **Tenderer's Qualifications**: documentary evidence in accordance with ITT 17 establishing the tenderer's qualifications to perform the Contract if its Tender is accepted;

g) **Tenderer's Eligibility**: documentary evidence in accordance with ITT 17 establishing the Tenderer's eligibility to Tender;
h) **Eligibility of Goods and Related Services**: documentary evidence in accordance with ITT 16, establishing the eligibility of the Goods and Related Services to be supplied by the Tenderer;
i) **Conformity**: documentary evidence in accordance with ITT 16, that the Goods and Related Services conform to the tendering document; and
j) Any other document required **in the TDS.**

11.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a Form of intent to execute a Joint Venture Agreement in the event of a

successful Tender shall be signed by all members and submitted with the tender, together with a copy of the proposed Agreement.

11.3 The Tenderer shall chronologically serialize pages of all tender documents submitted.

11.4 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

12. Form of Tender and Price Schedules

12.1 The Form of Tender and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT20.3. All blank spaces shall be filled in with the information requested.

13 Alternative Tenders

13.1 Unless otherwise specified **in the TDS,** alternative Tenders shall not be considered.

14 Tender Prices and Discounts

14.1 The prices and discounts quoted by the Tenderer in the Form of Tender and in the Price Schedules shall conform to the requirements specified below.

14.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.

14.3 The price to be quoted in the Form of Tender in accordance with ITT11.1shall be the total price of the Tender, including any discounts offered.

14.4 The Tenderer shall quote any discounts and indicate the methodology for their application in the Form of Tender, in accordance with ITT14.1.

14.5 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not subject to variation on any account, unless otherwise specified in the TDS .A Tender submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITT29.However, if in accordance with the TDS, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract, a Tender submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

14.6 If so specified inITT1.1, Tenders are being invited for individual lots (contracts) or any combination of lots (packages).Unless otherwise specified in the TDS, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Tenderers wishing to offer discounts for the award of more than one contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT14.4 provided the Tenders for all lots (contracts) are opened at the same time.

14.7 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the TDS.

14.8 Prices shall be quoted as specified in each Price Schedule included in Section IV, Tendering Forms. The dis- aggregation of price components is required solely for the purpose of facilitating the comparison of Tenders by the Procuring Entity. This shall not in any way limit the Procuring Entity's right to contract on any of the terms

offered. In quoting prices, the Tenderer shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V,

Eligible Countries. Similarly, the Tenderer may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. Prices shall be entered in the following manner:

a) For Goods manufactured in Kenya:

i) the price of the Goods quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the- shelf, as applicable), Including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Goods;

ii) any Kenya sales tax and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and

iii) the price for in land transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) **specified in the TDS**;

b) for Goods manufactured outside Kenya, to be imported:

i) the price of the Goods, quoted CIP named place of destination, in Kenya, as **specified in the TDS**; and

ii) the price for inland transportation, insurance, local taxes payable on the goods and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) **specified in the TDS**;

c) for Goods manufactured outside Kenya, already imported:

i) the price of the Goods, including the original import value of the Goods; plus, any mark-up (or rebate); plus, any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported;

ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;

iii) the price of the Goods, obtained as the difference between (i)and(ii)above; iv) any Kenya sales and other taxes which will be payable on the Goods if the Contract is awarded to the Tenderer; and

v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified **in the TDS.**

d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirement

i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

15 Currencies of Tender and Payment

15.1 The currency(ies) of the Tender and the currency(ies) of payments shall be the same. The Tenderer shall quote in the currency of Kenya the portion of the Tender price that corresponds to expenditures incurred in Kenya Shillings, unless otherwise specified in the TDS.

15.2 The Tenderer may express the Tender price in any currency. If the Tenderer wishes to be paid in a combination of amounts in different currencies; it may quote its price accordingly but shall use no more than two foreign currencies in addition to the currency of Kenya.

15.3 The rates of exchange to be used by the Tenderer shall be based on the exchange rate provided by the Central Bank of Kenya on the date 30days prior to the actual date of tender opening. Such exchange rate shall apply for all foreign payments under the foreign payments under the contract.

16 Documents Establishing the Eligibility and Conformity of the Goods and Related Services

16.1 To establish the eligibility of the Goods and Related Services in accordance with ITT5, Tenderers shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Tendering Forms.

16.2 To establish the conformity of the Health Sector Goods and Related Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.

16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of:

a) an item-by-item commentary on the provisions of Section VII, Schedule of Requirements demonstrating substantial responsiveness of the Goods and Services to the specifications, or a statement of deviations and exceptions to the provisions of the specifications; and

b) any other procurement-specific documentation requirement as stated **in the TDS.**

Unless the **TDS** stipulates otherwise, the Goods to be supplied under the Contract shall be registered with the relevant authority in Kenya. A Tenderer who has already registered its Goods by the time of Tendering should submit a copy of the Registration Certificate with its Tender. Otherwise, the successful Tenderer, by the time of Contract signing, shall submit to the Procuring Entity either:

a) A copy of the Registration Certificate of the Goods for use in Kenya; or

b) If such Registration Certificate has not yet been obtained, evidence establishing to the Procuring Entity's satisfaction that the Tenderer has complied with all the documentary requirements for registration as specified **in the TDS.**

16.4 The Procuring Entity shall at all times cooperate with the successful Tenderer to facilitate the registration process within Kenya. The agency and contact person to provide additional information about registration are identified in the TDS.

16.5 If the Goods of the successful Tenderer have not been registered in Kenya at the time of Contract signing, then the Contract shall become effective upon such date as the Certificate of Registration is obtained.

16.6 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Procuring Entity in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Procuring Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

17 Documents Establishing the Eligibility and Qualifications of the Tenderer

17.1 To establish Tenderer's eligibility in accordance with ITT 4, Tenderers shall complete the Form of Tender, included in Section IV, Tendering Forms.

17.2 The documentary evidence of the Tenderer's qualifications to perform the Contract if its Tender is accepted shall establish to the Procuring Entity's satisfaction:

a) that a Tenderer that does not manufacture or produce the Health Sector Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Tendering Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Kenya;

b) that in case of a Tenderer not doing business within Kenya (or for other reasons will not itself carry out service obligations), the Tenderer is or will be (if awarded the Contract) represented by a local service provider in Kenya equipped and able to carry out the Tenderer's warranty obligations prescribed in the Conditions of Contract and/or Technical Specifications; and

c) that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria (see additional ITT for pharmaceuticals and vaccines).

17.3 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity a supplier or group of suppliers' qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation other procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

17.4 The purpose of the information described in ITT 17.2 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

17.5 The Tenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT17.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

17.6 All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the Procuring Entity.

17.7 If a tenderer fails to submit the information required by these requirements, its tenderer will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.

17.8 If information submitted by a tenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public

or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

i) If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,

ii) If the contract has been awarded to that tenderer, the contract award will be set aside,

iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

17.9 If a tenderer submits information pursuant to these requirements that is in complete, in accurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT17.7 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.

18 Period of Validity of Tenders

18.1 Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT22.1).A Tender valid for a shorter period shall be rejected by the Procuring Entity as nonresponsive.

18.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 19, it shall also be extended for a corresponding period. A Tenderer may refuse the request without forfeiting its Tender Security. A Tenderer granting the request shall not be required or permitted to modify its Tender.

19 Tender Security

19.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security, as specified in the TDS, in original form and, in the case of a Tender Security, in the amount and currency specified in the TDS.

19.2 A Tender-Securing Declaration shall use the form included in Section IV, Tendering Forms. If a Tender is specified pursuant to ITT 19.1, the Tender Security shall be a:

i) A bank guarantee;

ii) A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or

iii) A guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya.

iv) Any other Form specified in the **TDS**.

19.3 If a Tender Security is specified pursuant to ITT19.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.

19.4 If a Tender Security is specified pursuant to ITT 19.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security pursuant to ITT45.TheProcuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders

were determined non-responsive or abider declines to extend tender validity period.

19.5 The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security.

19.6 The Tender Security may be forfeited or the Tender-Securing Declaration executed:

a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension there to provided by the Tenderer; or

b) if the successful Tenderer fails to:

i) sign the Contract in accordance with ITT44; or

ii) furnish a Performance Security in accordance with ITT45.

19.7 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.

19.8 The Tender Security or Tender- Securing Declaration of a JV must be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of Tendering, the Tender Security or Tender-Securing Declaration shall be in the names of all future members as named in the FormofintentreferredtoinITT4.1andITT11.2.

20 Format and Signing of Tender

20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 13, shall be clearly marked "ALTERNATIVE" In addition, the Tenderer shall submit copies of the Tender, In the number specified **in the TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 Tenderers shall mark as "CONFIDENTIAL" information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information.

20.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.

20.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

20.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

20 Sealing and Marking of Tenders

20.1 Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender 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 Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and

b) in an envelope or package or container marked "COPIES", all required copies of the Tender; and

c) if alternative Tenders are permitted in accordance with ITT 12, and if relevant:

i) in an envelope or package or container marked "ORIGINAL –ALTERNATIVE TENDER", the alternative Tender; and

ii) in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

20.2. The inner envelopes or packages or containers shall:

a) bear the name and address of the Procuring Entity.

b) bear the name and address of the Tenderer; and

c) bear the name and Reference number of the Tender.

20.3. Where a tender package or container cannot fit in the tender box, the procuring entity shall:

a) Specify in the **TDS where** such documents should be received.

b) maintain a record of tenders received and issue acknowledgement receipt note to each tenderer specifying time and date of receipt.

c) Ensure all tenders received are handed over to the tender opening committee for opening at the specified opening place and time.

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

21. Deadline for Submission of Tenders

21.1 When so specified **in the TDS**, Tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures **specified in the TDS**.

21.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT7, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

22. Late Tenders

22.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of Tenders. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

23. Withdrawal, Substitution, and Modification of Tenders

23.1 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITT19.3, (except that

withdrawal notices do not require copies).The corresponding substitution or modification of the Tender must accompany the respective written notice.

23.2 All notices must be:

a) prepared and submitted in accordance with ITT 20 and 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" and

b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.

23.3 Tenders requested to be withdrawn in accordance with ITT 23.1 shall be returned unopened to the Tenderers.

23.4 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

24. Tender Opening

24.1 Except as in the cases specified in ITT 23, the Procuring Entity shall, at the Tender opening, publicly open and read out all Tenders received by the deadline at the date, time and place specified **in the TDS** in the presence of Tenderers' designated representatives who choose to attend, including to attend any specific electronic tender opening procedures if electronic tendering is permitted in accordance with ITT 21.1, shall be as specified **in the TDS.**

24.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding Tender shall not be opened, but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

24.3 Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

24.4 Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.

24.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Prices, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security, if required; and any other details as the Procuring Entity may consider appropriate.

24.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the Procuring Entity to sign shall be specified in the **TDS.**

24.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 22.1).

24.8 The Procuring Entity shall prepare a record of the Tender opening that shall include, as a minimum:

a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;

b) the Tender Price, per lot (contract) if applicable, including any discounts;

c) any alternative Tenders;

d) the presence or absence of a Tender Security or Tender-Securing Declaration, if one was required;

e) number of pages of each tender document submitted.

24.9 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer signature on the record shall not invalidate the contents and effect of the record. A copy of the tender opening register shall be issued to a Tenderer upon request.

E. Evaluation and Comparison of Tenders

25. Confidentiality

25.1 Information relating to the evaluation of Tenders and recommendation of contract award, shall not be disclosed to Tenderers or any other persons not officially concerned with the tendering process until the information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 41.

25.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation or contract award decisions may result in the rejection of its Tender.

25.3 Notwithstanding ITT 25.2, from the time of Tender opening to the time of Contract Award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

26. Clarification of Tenders

26.1 To assist in the examination, evaluation, comparison of the Tenders, and qualification of the Tenderers, the Procuring Entity may, at its discretion, ask any Tenderer for a clarification of its Tender. Any clarification submitted by a Tenderer in respect to its Tender and that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the Evaluation of the Tenders, in accordance with ITT 30. If a Tenderer does not provide clarifications of its Tender by the date and time set in the Procuring Entity's request for clarification, its Tender may be rejected.

27. Deviations, Reservations and Omissions

27.1 During the evaluation of Tenders, the following definitions apply:

a) "Deviation" is a departure from the requirements specified in the Tendering document;

b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tendering document; and

c) "Omission" is the failure to submit part or all of the information or documentation required in the tendering document.

28. Determination of Responsiveness

28.1 A substantially responsive Tender is one that meets the requirements of the tendering document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

a) if accepted, would:

i) affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or

ii) limit in any substantial way, inconsistent with the tendering document, the Procuring Entity's rights or the Tenderer obligations under the Contract; or

b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

28.2 The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 15 and ITT 16, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.

28.3 If a Tender is not substantially responsive to the requirements of tendering document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

29. Non-conformities, Errors and Omissions

29.1 Provided that a Tender is substantially responsive, the Procuring Entity may waive any non- conformities in the Tender.

29.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial non- conformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the price of the Tender. Failure of the Tenderer to comply with the request may result in the rejection of its Tender.

29.3 Provided that a Tender is substantially responsive, the Procuring Entity shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified **in the TDS**. The adjustment shall be based on the ***average*** price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.

30. Arithmetical Errors

30.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

30.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) if there is a discrepancy between words and figures, the amount in words shall prevail.

30.3 Tenderers shall be notified of any error detected in their bid during the notification of award.

31. Conversion to Single Currency

31.1 For evaluation and comparison purposes, the currency(ies) of the Tender shall beconverted in a single currency as specified **in the TDS.**

32. Margin of Preference and Reservations

32.1 A margin of preference may be allowed on locally manufactured goods only when the contract is open to international tendering, where the tender is likely to attract foreign goods and where the contract exceeds the threshold specified in the Regulations.

32.2 For purposes of granting a margin goods under international competitive of preference on locally manufactured tendering, a procuring entity shall not subject the items listed below to international tender and hence no margin of preference shall be allowed. The affected items are:

a) motor vehicles, plant and equipment which are assembled in Kenya;

b) furniture, textile, foodstuffs, oil and gas, information communication technology, steel, cement, leather agro-processing, sanitary products, and other goods made in Kenya; or

c) goods manufactured, mined, extracted or grown in Kenya.

32.3 A margin of preference shall not be allowed unless it is specified so in the **TDS**.

32.4 Contracts procured on basis of international competitive tendering shall not be subject to reservations to specific groups s as provided in ITT 32.5.

32.5 Where it is intended to reserve a contract 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 **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender as specified in the **TDS**. No tender shall be reserved to more than one group. If not so stated in the Tender documents, the invitation to tender will be open to all interested tenderers.

33. Evaluation of Tenders

33.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies, the Procuring Entity shall determine the Lowest Evaluated Tender. This is the Tender of the Tenderer that meets the qualification criteria and whose Tender has been determined to be:

a) substantially responsive to the tender documents; and

b) the lowest evaluated price.

33.2 Price evaluation will be done for Items or Lots (contracts), as specified **in the TDS;** and the Tender Price as quoted in accordance with ITT 14. To evaluate a Tender, the Procuring Entity shall consider the following:

a) price adjustment due to unconditional discounts offered in accordance with ITT 13.4;

b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 31;

c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 29.3; and

d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

33.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.

33.4 Where the tender involves multiple lots or contracts, the tenderer will be allowed to tender for one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT 33.2. The methodology to determine the lowest evaluated tenderer or tenderers based one lot (contract) or based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.

33.5 The Procuring Entity's evaluation of a Tender will include and consider:

a) in the case of Goods manufactured in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Tenderer;

b) in the case of Goods manufactured outside Kenya, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Tenderer;

33.6 The Procuring Entity's evaluation of a Tender may require the consideration of other factors, in addition to the Tender Price quoted in accordance with ITT 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Tenders, unless otherwise specified in the **TDS** from amongst those set out in Section III, Evaluation and Qualification Criteria. The additional criteria and methodologies to be used shall be as specified in ITT 33.2(d).

34. Comparison of Tenders

34.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 33.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of total cost (place of final destination) prices for all goods and all prices, plus cost of inland transportation and insurance to place of destination, for goods manufactured within the Kenya, together with prices for any required installation, training, commissioning and other services.

35. Abnormally Low Tenders

35.1 An Abnormally Low Tender is one where the Tender price, in combination with other constituent elements of the Tender, appears unreasonably low to the extent that the Tender price raises material concerns with the Procuring Entity as to the capability of the Tenderer to perform the Contract for the offered Tender price.

35.2 In the event of identification of a potentially Abnormally Low Tender by the evaluation committee, the Procuring Entity shall seek written clarification from the Tenderer, including a detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the tendering document.

35.3 After evaluation of the price analysis, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the contract for the offered Tender price, the Procuring Entity shall reject the Tender.

36. Abnormally High Tenders

36.4 An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, 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 Tenderers is compromised.

36.5 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 Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

i) If the tender price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.

ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

36.6 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Tenders and shall institute or cause relevant Government Agencies to institute an investigation on the cause of the compromise, before retendering.

37. Post-Qualification of the Tenderer

37.1 The Procuring Entity shall determine, to its satisfaction, whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

37.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer qualifications submitted by the Tenderer, pursuant to ITT 15 and 16. The determination shall not take into consideration the qualifications of other firms such as the Tenderer subsidiaries, parent entities, affiliates, subcontractors (other than specialized subcontractors if permitted in the tendering document), or any other firm(s) different from the Tenderer.

37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated cost to make a similar determination of that Tenderer qualifications to perform satisfactorily.

38. Lowest Evaluated Tender

38.1 Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Lowest Evaluated Tender. The Lowest Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:

a) most responsive to the Tender document; and

b) the lowest evaluated price.

39. Procuring Entity's Right to Accept Any Tender, and to Reject Any or All Tenders.

39.1 The Procuring Entity reserves the right to accept or reject any Tender, and to annul the Tendering process and reject all Tenders at any time prior to notification Award, without

thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

40. Award Criteria

40.1 The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender in accordance with procedures in Section 3: Evaluation and Qualification Criteria.

41. Procuring Entity's Right to Vary Quantities at Time of Award

41.1 The Procuring Entity reserves the right at the time of Contract award to increase or decrease, by the percentage (s) for items as indicated **in the TDS.**

42. Notice of Intention to enter into a Contract

Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issue a Notification of Intention to Enter into a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:

a) the name and address of the Tenderer submitting the successful tender;

b) the Contract price of the successful tender;

c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed w a s unsuccessful, unless the price information in (c) above already reveals the reason;

d) the expiry date of the Standstill Period; and

e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

43. Standstill Period

43.1 The Contract shall not be awarded earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied candidate to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.

43.2 Where standstill period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract to the successful Tenderer.

44. Debriefing by the Procuring Entity

44.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 41, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender. The Procuring Entity shall provide the debriefing within five days of receipt of the request.

44.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

45. Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42, upon addressing a complaint that has been filed within the Standstill Period, the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

46. Signing of Contract

46.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

46.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Procuring Entity.

46.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.

47. Performance Security

47.1 Within twenty-one (21) days of the receipt of Letter of Acceptance from the Procuring Entity, the successful Tenderer, if required, shall furnish the Performance Security in accordance with the GCC18, using for that purpose the Performance Security Form included in Section X, Contract Forms. If the Performance Security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Tenderer to be acceptable to the Procuring Entity. A foreign institution providing a bond shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent financial institution is not required.

47.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next lowest Evaluated Tender.

47.3 Performance security shall not be required for a contract, if so specified in the **TDS**.

48. Publication of Procurement Contract

48.1 Within fourteen days after signing the contract, the Procuring Entity shall publish and publicize the awarded contract at its notice boards, entity website; and on the Website of the Authority in manner and format prescribed by the Authority.

At the minimum, the notice shall contain the following information:

a) name and address of the Procuring Entity;

b) name and reference number of the contract being awarded, a summary of its scope and the selection method used

c) the name of the successful Tenderer, the final total contract price, the contract duration.

d) dates of signature, commencement and completion of contract;

e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening;

49. Procurement Related Complaints and Administrative Review

49.1 The procedures for making a Procurement-related Complaint are as specified in the **TDS**

SECTION II - TENDER DATA SHEET (TDS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A. General	
ITB 1.1	The reference number of the Invitation to Tenders (ITT) is: **KSU/T/11/2024 -2025** The Procuring Entity is: **Kisii University** The name of the ITT is: **Supply & Delivery of Drugs, Dressing and Infusion** The number and identification of lots (contracts) comprising this ITT is: **None**
ITB2.1(a)	Not Applicable
ITT 3.3	The firms that provided consulting services are: **None**
ITB 4.1	Maximum number of members in the Joint Venture (JV) shall be: **N/A**
B. Contents of Tendering Document	
ITB 7.1	The contact address is**: PO Box 408 – 40200 Kisii.** Attention: **Vice Chancellor**. Postal Address: **PO Box 408-40200 Kisii.** Physical Address: **Kisii University way, Administration Building.** Requests for clarification should be received by the Procuring Entity no later than: **7 days to tender closure)** The Procuring Entity shall publish its response at the website. www.kisiiuniversity.ac.ke
C. Preparation of Tenders	
ITB 11.1 (j)	The Tenderer shall submit the following additional documents in its Tender: Refer to Section III Preliminary evaluation Criteria
ITB 13.1	Alternative Tenders ***"shall not be"*** considered.
ITB 14.5	The prices quoted by the Tenderer ***shall not*** be subject to adjustment during the performance of the Contract.

	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
Reference to ITC Clause	
ITB 14.6	Prices quoted for each item of a lot shall correspond at least to 100 percent of the quantities specified for this item of a lot. N/ A.
ITB 14.7	The Incoterms edition is: **2010.**
ITB 14.8 (a) iii, (b) (i) and (c) (v)	Place of destination: **Kisii University, Kisii, Kenya**
TB 14.8 (a) (iii), (b) (ii) and c (v)	Final Destination (Project Site): **Delivery Kisii University**
ITB 15.1	The Tenderer ***is*** required to quote in Kenya shillings the portion of the Tender price that corresponds to expenditures incurred in that currency.
ITT 16.3(b)	For each Health products offered, documentary evidence demonstrating that such product has been manufactured in accordance with the latest publicly available monographs and the finished product meets the standards as described in any of the following pharmacopoeia:
ITT 16.4	Goods to be supplied under the Contract shall be registered with Pharmacy and Poisons Board in Kenya.
16.5	The contact person in the Procuring Entity able to provide additional information about registration is; procurement@kisiiuniversity.ac.ke
ITB 18.1	The Tender validity period shall be **120** days.
ITB 18.3 (a) **ITB 19.1** **ITB 19.2 (v)**	The Tender price shall be adjusted by the following factor(s): N/A A *Tender Security* ***"shall be"*** required. A Tender-Securing Declaration ***"shall not be"*** required.
ITB 20.1	if a Tender Security shall be required, the amount and currency of the Tender security shall be Kshs. 50,000.00
	Other types of acceptable securities: None In addition to the original of the Tender, the number of copies is: **1 *copy***

PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS

Reference to ITC Clause	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of**: Written Power of Attorney in the event of a Limited**
ITB 20.3	**Company/Partnership.**
D. Submission and Opening of Tenders	
ITB 22.1	For **Tender submission purposes** only, the Procuring Entity's address is: Attention: **The Vice Chancellor,** **Kisii University** **P.O Box 408 – 40200 KISII.** The Tender Box is located at Kisii University Administration Block **The deadline for Tender submission is:** Date: **14th NOVEMBER 2024** Time: ***11:30 a.m.***
ITB 25.1	Tenderers ***not*** have the option of submitting their Tenders The Tender opening shall take place at Conference Room on **14th NOVEMBER 2024 at *11:30 a.m.***
ITB 25.6	The Form of Tender and Price Schedules shall be initialed by 4 representatives of the Procuring Entity conducting Tender opening. ***Each Tender shall be initialed***
	by 2 representatives and shall be numbered, any modification to the unit or total price shall be initialed by the Representative of the Procuring Entity
ITB 32.1	**E. Evaluation and Comparison of Tenders** The currency that shall be used for Tender evaluation and comparison
purposes to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is: Kenya Shillings	
ITB 33.1	The source of exchange rate shall be ***Central Bank in Kenya*** The date for the exchange rate shall be ***Date for submission of the Tenders*** A margin of preference ***shall not*** apply.
F. Award of Contract	

ITB 48.1	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA website **www.ppra.go.ke**. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by email or fax), to: **For the attention**: *[insert full name of person receiving complaints]* **Title/position**: *[insert title/position]*

Reference to	**PARTICULARS OF**
APPENDIX TO	**INSTRUCTIONS TO TENDERS ITC Clause** **Email address**: *[insert email address]* In summary, a Procurement-related Complaint may challenge any of the following: **1.** the terms of the Tendering Documents; and **2.** the Procuring Entity's decision to award the contract.

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provision

1.1 This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms.

2. Evaluation and contract award Criteria

2.1 The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that:

(i) meets the qualification criteria,

(ii) has been determined to be substantially responsive to the Tender Documents, and

(iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

3. Preliminary examination for Determination of Responsiveness

3.1 The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. Tenders that do not pass the Preliminary Examination will be considered non-responsive and will not be considered further.

Sr.No	Requirement	Responsive	Non-Responsive
1.	Submit a copy of valid tax compliance certificate.		
2.	Must Submit Premises registration certificate by the Pharmacy and Poisons Board.		
3.	Submit a copy of Certificate of incorporation.		
4.	Submit tender Security of Ksh 50,000 in bank guarantee or from an insurance company approved by PPRA		
5.	Must Submit a duly filled, signed and stamped the Confidential Business Questionnaire as outlined in Section IV		
6.	Must Submit duly filled, signed and stamped Self Declaration Forms as outlined in Section IV		
7.	Must submit Current and Valid Annual Practice License of the Superintendent pharmacist		

Responsive……Non-responsive……

TECHNICAL EVALUATION

Sr.No	Requirement	Max Score	Actual Score
1.	3 Copies of contracts or LPOs in the last two years of at least Kshs 300,000 (Each 10 Points)	30	
2.	Copy of Company Profile and copies of relevant certificates of key staff.(Pharmaceutical, Finance and Procurement/Stores Personnel)	20	
3.	3 Copies of letters of recommendation from reputable clients(Each 10 marks)	30	
4.	Provide audited accounts for the last two financial years.	20	
	TOTAL	**100**	

Bidders must score at least **80 points** for them to **proceed** to **Financial Evaluation.**

Financial Evaluation:

The ***Lowest Evaluated Bidder/Tenderer(s) per item*** will be considered subject to due diligence.

DUE DILIGENCE.

Kisii University Evaluation Committee for this particular tender, may visit the bidder's reference sites to ascertain the authenticity of the sites and scope of past work before award of contract. In addition, Kisii University shall visit the bidder's office to verify the location, original documents as per copies submitted, Evidence of Customer Complaints Handling Procedure or Register and Organizational Composition. If Kisii University finds the bidder to have given misleading information in the bid, this will lead to a disqualification of the Tender. Bidders with references outside Kenya shall facilitate the committee at their own cost to undertake due diligence.

4. Tender Evaluation (ITT34) N/A

5. Multiple Contracts (ITT 34.4) N/A

6. Alternative Tenders (ITT13.1) N/A

7. MARGIN OF PREFERENCE N/A

8. Post qualification and Contract award (ITT37), more specifically,

8.1 After determining the substantially responsive tender which offers the lowest-evaluated price, whether the tenderer is a manufacturer on or just a supplier: The Procuring Entity shall carry out the post-qualification, if no prequalification was done using the following criteria:

a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of prequalification data, if so required.

b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.

i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of
Kenya
Shillings

_____

ii) At least _____(*insert number)* of contract (s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been
satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings
equivalent.

iii) Other conditions depending on their seriousness.

a) **History of non-performing contracts**:

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non- performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last 3 *years*. The required information shall be furnished in the appropriate form.

b) Pending Litigation

Financial position and prospective long term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria

established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. shall provide information on pending litigations in the appropriate form.

c) **Litigation History**

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last 3 *years.* All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or on going under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

Eligibility and Qualification Criteria			Compliance Requirements				Documentation
No.	Subject	Requirement	Single Entity	Joint Venture (existing or intended)			Submission Requirements
				All Members Combined	Each Member	One Member	
1. Eligibility							
1.1	**Nationality**	Nationality in accordance with ITT 4.5	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Forms ELI – 1.1 with
1.2	**Conflict of Interest**	No conflicts of interest in accordance with ITT 4.3	Must meet requirement	Must meet requirement	Must meet requirement	N/A	attachments Tender Submission
1.3	**Bank Eligibility**	Not having been declared ineligible by the PPRA as described in ITT 4.6 and 5.1	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter Tender Submission
1.4	**State-owned enterprise of**	Meet conditions of ITT 4.7	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Letter Forms ELI – 1.1 with
1.5	**Kenya United Nations resolution or Kenya law**	Not having been excluded as a result of prohibition in Kenya laws or official regulations against commercial relations with the Tenderer's country, or by an act of compliance with UN Security Council resolution, both in accordance with ITT 4.9	Must meet requirement	Must meet requirement	Must meet requirement	N/A	attachments Forms ELI – 1.1 with attachments
		and Section V.					
2.			Must meet	Must meet	Must meet	N/A	Form PER-1
			requirement2	requirements	requirement[2]		
	Performing Contracts	occur as a result of Supplier's default since 1st January 2020.			Must meet	Must meet	Must meet
2.2	**Suspension**	Not under suspension based on execution	N/A	Tender			

Historical Contract Non-Performance

		Compliance Requirements			Documentation Submission Requirements
		Single Entity	**Joint Venture (existing or intended)**		
			All Members Combined	**Each Member**	**One Member**	
2.1	**History of Non-**	Non-performance of a contract[1] did not				
		requirement	requirement	requirement Must meet		Submission Letter
		Must meet requirement	N/A		N/A	Form PER-1

[1] Nonperformance, as decided by the Procuring Entity, shall include all contracts where (a) nonperformance was not challenged by the Supplier, including through referral to the dispute resolution mechanism under the respective contract, and (b) contracts that were so challenged but fully settled against the Supplier. Nonperformance shall not include contracts where Procuring Entity's decision was overruled by the dispute resolution mechanism. Nonperformance must be based on all information on fully settled disputes or litigation, i.e. dispute or litigation that has been resolved in accordance with the dispute resolution mechanism under the respective contract and where all appeal instances available to the Tenderer have been exhausted.

[2] This requirement also applies to contracts executed by the Tenderer as JV member.

Eligibility and Qualification Criteria							
No.	**Subject**	**Requirement**	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Form PER-1
	Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	of a Tender/Proposal Securing Declaration pursuant to ITT 4.8					
2.3	**Pending Litigation**	Tenderer's financial position and prospective long-term profitability still sound according to criteria established in 3.1 below and assuming that all pending litigation will be resolved against the Tenderer					
2.4	**Litigation History**	No consistent history of court/arbitral award decisions against the Tenderer since 1st January 2018					
3. Financial Situation and Performance							
3.1	**Financial Capabilities**	The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the		last 3	years	shall	

	mitted and must demonstrate the current	soundness of the Tenderer's financial	Must meet			
	N/A	Must meet	N/A	position and indicate its prospective long-	requirement	term profitability.
3.2 **Average**	annual turnover (Average	**Annual Turnover**	Annual Sales Revenue) from supply of			
	Health Sector Goods of 20 Million Kenya					
	Shillings, calculated as total certified		payments received for contracts in			
	progress and/or completed during the last three years.	Must meet requirement	Must meet requirement	N/A	N/A	Form FIN – 3.2
3.3 **Current**	The Tenderer shall also demonstrate, to	**Commitments**	the satisfaction of the Procuring Entity,			
	that it has adequate sources of finance to					
	meet the cash flow requirements on					
						Form CON -1

Eligibility and Qualification Criteria			Compliance Requirements Single Entity	Joint Venture (existing or intended)			Documentation Submission
No.	**Subject**	**Requirement**		**All Members Combined**	**Each Member**	**One Member**	**Requirements**
		contracts currently in progress and for future contract commitments.					
4. Experience							
4.1	**General**	Experience in supply of Health Sector	Must meet requirement	N/A	Must meet requirement	N/A	Form EXP –1
4.2 (a)	**Experience Specific Experience**	Goods for at least the last three years (i) Documentary evidence of the Tenderer's qualifications to perform the Contract in accordance with 4.2 (b)(i) below (ii) Technical and Production Capability in accordance with 4.2(b)(ii) as below. (iii) Experience on Packaging, Distribution in accordance with 4.2(b)(iii) below.	Must meet requirement Must meet requirement Must meet requirement	Must meet requirement Must meet requirement Must meet requirement	N/A N/A N/A	Must meet requirement Must meet requirement Must meet requirement	

Specific Experience Requirements

The Specific Experience Requirements under 4.2 (b) (from the table above) are as follows:

4.2(b)(i) Documentary evidence in accordance with TDS ITT11.14.2(b)

(ii) Technical and Production Capability.

The Tenderer shall provide evidence that it has the technical, and production capability necessary to perform the Contract:

(i) That it has successfully completed or substantially completed at least four similar contracts for supply of the goods and within the last five years. Similar contracts are those of approximately the same size and that includes comparable products, e.g., capsules, tablets,.

(ii) The goods may have been supplied by the Tenderer as a manufacturer or by its agent, with references being submitted to confirm satisfactory performance.

4.2 (b)(iii) Experience on Packaging, Distribution and Transportation

The Tenderer should provide proof of experience with and knowledge of modes of packing, distribution, and transportation of pharmaceuticals similar to those subject to Tendering under logistical and climatic conditions similar to the ones in Kenya. It should provide names of countries to which the Tenderer has supplied (including packaged, distributed, and transported) products worth at least the amount [*insert the amount*] within the past three years.

SECTION IV - TENDERING FORMS - FORM OF TENDER

INSTRUCTIONS TO TENDERERS

i) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*

ii) *A italicized text is to help Tenderer in preparing this form.*

iii) *Tenderer must complete and sign and* TENDERER'S ELIGIBILITY - CONFIDENTIAL BUSINESS QUESTIONNAIRE, *CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER,* all *attached to this Form of Tender.*

iv) *The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.*

- *Tenderer's Eligibility-Confidential Business Questionnaire*
- *Certificate of Independent Tender Determination*
- *Self-Declaration of the Tenderer*

Date of this Tender submission: [*insert date (as day, month and year) of Tender submission*]

Invitation to Tender No.: [*insert identification]* **Alternative No.**: [*insert identification No if this is a Tender for an alternative*] To: *[insert complete name of Procuring Entity]*

a) **No reservation:** We have examined and have no reservations to the tendering document, including Add and issued in accordance with Instructions to Tenderers(ITT8);

b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance withITT4;

c) We have not been suspended nor declared in eligible by the Procuring Entity based on execution of a Tender- Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with ITT4.8;

d) **Conformity:** We offer to supply inconformity with the tendering document and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: *[insert a brief description of the Goods and Related Services];*

e) **Tender Price:** The total price of our Tender, excluding any discounts offered in item(f)below is: *[Insert one of the options below as appropriate]*

Optiona1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies];*

or

Option2, in case of multiple lots:(a)Total price of each lot*[insert the total price of*

each lot in words and figures, indicating the various amounts and the respective currencies]; and(b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies];*

f) **Discounts:** The discounts offered and the methodology for their application are:

i) The discounts offered are: [*Specify in detail each discount offered.*]

ii) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify in detail the method that shall be used to apply the discounts*];

g) **Tender Validity Period**: Our Tender shall be valid for the period specified in TDS 18.1 (as amended if applicable) from the date fixed or the Tender submission deadline specified inTDS22.1(as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

h) **Performance Security**: I four Tender is accepted; we commit to obtain a Performance Security in accordance with the tendering document;

i) **One Tender per Tenderer**: We are not submitting any other Tender(s) as an individual Tenderer, and we are not participating in any other Tender(s) as a Joint Venture partner or as a sub-contractor, and meet the requirements of ITT4.4, other than alternative Tenders submitted in accordance with ITT13;

j) **Suspension and Debarment:** We, along with any of our sub-contractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA. Further, we are not in eligible under Kenya laws or official regulations or pursuant to a decision of the United Nations Security Council;

k) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution]/ [We are a state-owned enterprise or institution but meet the requirements of ITT4.7];*

l) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Tendering process or execution of the Contract: *[insert complete name of each Recipient, its full address, there as on for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate "none.")

m) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed;

n) **Procuring Entity Not Bound to Accept:** We understand and that you are not bound to accept the lowest evaluated cost Tender, the Lowest Evaluated Tender or any other Tender that you may receive; and

o) **Fraud and Corruption:** We here by 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.

p) **Collusive practices**: We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the "Certificate of Independent Tender Determination" attached below.

(q) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from (*specify website*) during the procurement process and the execution of any resulting contract.

(r) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:

a) Tenderer's Eligibility; Confidential Business Questionnaire – to establish we are not in any conflict to interest.

b) Certificate of Independent Tender Determination - to declare that we completed the tender without colluding with other tenderers.

c) Self-Declaration of the Tenderer–to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.

d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in **"Appendix1-Fraudand Corruption**" attached to the Form of Tender.

Name of the Tenderer: **[insert complete name of the Tenderer]*

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

Title of the person signing the Tender: *[insert complete title of the person signing*

the Tender] **Signature of the person named above**: *[insert signature of person*

whose name and capacity are shown above]

Date signed *[insert date of signing] day* **of** *[insert month], [insert year]*

*****: In the case of the Tender submitted by a Joint Venture specify the name of the Joint Venture as Tenderer.

**: Person signing the Tender shall have the power of attorney given by the Tenderer. The power of attorney shall be attached with the Tender Schedules.

TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

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	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	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.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (*postal and physical addresses, email, and telephone number*) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (*postal and physical addresses, email, and telephone number*) of state which stock exchange	

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				

e) DISCLOSURE OF INTEREST-Interest of the Firm in the Procuring Entity.

i) Are there any person/persons in.....? (*Name of Procuring Entity)* who has/have an interest or relationship in this firm?

Yes/No..... If yes, provide details as follows.

	Names of Person	**Designation in the Procuring Entity**	**Interest or Relationship with Tenderer**
1			
2			
3			

I, the undersigned, in submitting the accompanying Letter of Tender to the *[Name of Procuring Entity]* for: *[Name and number of tender]* in response to the request for tenders made by: *[Name of Tenderer]* do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____ *[Name of Tenderer]* that:

1. I have read and I understand the contents of this Certificate;

2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;

3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;

4. For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:

   a) hasbeenrequestedtosubmitaTenderinresponsetothisrequestfortenders;

   b) 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]:

   a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;

   b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

6. In particular, without limiting the generality of paragraphs (5)(a) or(5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

   a) prices;

   b) methods, factors or formulas used to calculate prices;

   c) the intention or decision to submit, or not to submit, a tender; or

   d) the submission of a tender which does not meet the specifications of the request for Tenders; 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 request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph(5)(b) above;

8. The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official

tender 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 Tenderer and Date]

SELF-DECLARATIONFORMS

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT ANDASSET DISPOSAL ACT 2015

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

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer /Director of ……..……. *(insert name of the Company)* who is a Bidder in respect of **Tender No……** for……..*(insert tender title/description)* for……. (*insert name of the Procuring entity)* and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

……	……	……
(Title)	(Signature)	(Date)

Bidder Official Stamp

FORM SD2

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

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

1. **THAT** I am the Chief Executive/Managing Director/Principal Officer /Director of…….....…… ……..... *(insert name of the Company)* who is a Bidder in respect of **Tender No.**…… for……..…… *(insert tender title/description)* for……*(insert name of the Procuring entity)* and duly authorized and competent to make this statement.

2. **THAT** the aforesaid Bidder, it's servants and/or agents/sub-contractors 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** whatisdeponedtohereinaboveistruetothebestofmyknowledgeinformationandbelief.

…… …… ……..……..……..…… ……..……..……
(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 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…….....

APPENDIX 1- FRAUD AND CORRUPTION

i) APPENDIX1-FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

1.1 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.

2. Requirements

2.1 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 1.1above.

2.2 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 be low highlight Kenya's policy of no tolerance for such practices and behavior:

1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;

2) A person referred to under sub section (1) who contravenes the provisions of that sub-section commits an offence;

3) Without limiting the generality of the subsection (1) and (2), the person shall be: -

a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or

b) if a contract has already been entered into with the person, the contract shall be voidable;

4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;

3. 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: -

a) Shall not take part in the procurement proceedings;

b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and

c) Shall not be a subcontractor for the tender to whom was awarded

contract, or a member of the group of tenders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

4. 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;

4.1 If a person contravenes subsection (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 a warding officer. etc.

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:

a) 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

b) 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.

c) 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 he procuring entity of the benefits of free and open competition.

c) Rejects a proposal for award[1] 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 recommend to appropriate authority(ies) for sanctioning and debarment of a firm or individual, as applicable under the Act sand 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 Subcontractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect[2] all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

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

TENDERER INFORMATION FORM

Tenderers shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]
Date: .....*[insert date (as day, month and year) of Tender submission]* ITT No.: .....*[insert number of tendering process]*
Alternative No.: ..... *[insert identification No if this is a Tender for an alternative]*
Page__of____pages

1. Tenderer's Name [*insert Tenderer's legal name]*
2. In case of JV, legal name of each member: *[insert legal name of each member in JV]*
3. Tenderer's actual or intended country of registration: *[insert actual or intended country of registration]*
4. Tenderer's year of registration: *[insert Tenderer's year of registration]*
5. Tenderer's Address in country of registration: *[insert Tenderer's legal address in country of registration]*
6. Tenderer's Authorized Representative Information Name: *[insert Authorized Representative's name]* Address: *[insert Authorized Representative's Address]* Telephone/Fax numbers: *[insert Authorized Representative's telephone/fax numbers]* Email Address: *[insert Authorized Representative's email address]*
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance withITT4.4. ☐ In case of JV, Form of intent to form JV or JV agreement, in accordance with ITT 4.1. ☐ In case of state-owned enterprise or institution, in accordance with ITT 4.7 documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the Procuring Entity 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

FORM ELI - 1.1 (continued)
Tenderer Information Form
Date: *[insert day, month, year]*
ITT No. and title: *[insert ITT number and title]*
Page *[insert page number]* of *[insert total number]* pages

1.Tenderer's name			
2. Street Address:	Postal Code:	City:	Country:
3.P.O. Box and Mailing Address:			
4.Telephone			
5.Fax Number:			
Number:			
6Email Address			
7.Web Address			
8.Site:			
9.Contact Name:			
10.Contact Title:			
11.Type of Business			
Nature of Business:			
12.Other, specify, if any:			
13. Year Established:			
14.Dates, Numbers, and Expiration Dates of Current Licenses and Permits:			
15. Current health authority registration information: 16. Proof of product and facility registrations with Kenya regulatory authority and international agencies (e.g., WHO Certification Scheme, GMP)			
17.Name of government agency responsible for inspecting licensing of facilities in the country of origin of the raw material and/ or processing of the goods:			
18.Date of last inspection: Quality Assurance Certification			

(Please include a copy of your latest certificate):

19. Production capacity: *[insert peak and average production capacity over the last three years in units/day or units/month, etc.]*

20. List of names and addresses of sources of raw material and what products they will be used in:
21. Proof of raw material product and facility registrations with Kenya regulatory authority and international agencies (e.g., WHO Certification Scheme, GMP):
22. Raw materials tested prior to use:
23. Presence and characteristics of in-house quality control laboratory
24. Names and addresses of external quality control laboratories used:
25. Are all finished products tested and released by quality control prior to release for sale?
Yes ___ No ___, If not, why?
26. List control tests done during production? If so list.
27. Procedures for dealing with rejected batches:
28. List tests conducted after production and prior to release of product on market:
29. List product recalls linked to defects during the last 36 months. Include reason and date of recall.
30. Are technical documents available in: ***[Procuring Entity should insert language]*** Yes or No

TENDERER'S JV MEMBERS INFORMATION FORM

[The Tenderer shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Tenderer and for each member of a Joint Venture.

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

ITT No.: ..... *[insert number of tendering process]* Alternative No.: .....

[insert identification No .if this is a Tender for an alternative] Page of _____pages

1. Tenderer's Name: *[insert Tenderer's legal name]*
2. Tenderer's JV Member's name: *[insert JV's Member legal name]*
3. Tenderer's JV Member's country of registration: *[insert JV's Member country of registration]*
4. Tenderer's JV Member's year of registration: *[insert JV's Member year of registration]*
5. Tenderer's JV Member's legal address in country of registration: *[insert JV's Member legal address in country of registration]*
6. Tenderer's JV Member's authorized representative information Name: *[insert name of JV's Member authorized representative]* Address: *[insert address of JV's Member authorized representative]* Telephone/Fax numbers: *[insert telephone/fax numbers of JV's Member authorized representative]* Email Address: *[insert email address of JV's Member authorized representative]*
7. Attached are copies of original documents of *[check the box(es) of the attached original documents]* ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance withITT4.4 ☐Tax Obligations for Kenyan Tenderers, attach copy of current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 4.13. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and not under the supervision of the Procuring Entity, in accordance with ITT4.7. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

FORM FIN – 3.1 FINANCIAL SITUATION AND PERFORMANCE

[The following table shall be filled in for the Tenderer and for each member of a Joint Venture]

Tenderer's Name: *[insert full*

name] Date: *[insert day, month,*

year]

Joint Venture Member Name: *[insert full*

name] ITT No. and title: *[insert ITT number*

and title]

Page *[insert page number]* of *[insert total number]* pages

1. Financial data

Type of Financial information in (currency)	**Historic information for previous** _ *[insert number] years, [insert in words]* **(amount in currency, currency, exchange rate, USD equivalent)**				
	Year 1	Year 2	Year 3		
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

1. FINANCIAL DOCUMENTS

The Tenderer and its parties shall provide copies of financial statements for 3 years pursuant Section III, Qualifications Criteria and Requirements, Sub-factor 3.1. The financial statements shall:

a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity(such as parent company or group member).

b) Be independently audited or certified in accordance with local legislation.

c) Be complete, including all notes to the financial statements.

d) Correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statement for the 3 years required above; and complying with the requirements

FORM FIN - 3.2
AVERAGE ANNUAL TURNOVER (ANNUAL SALES VALUE)

[The following table shall be filled in for the Tenderer and for each member of a Joint Venture]

Tenderer's Name: *[insert full*

name] Date: *[insert day, month,*

year]

Joint Venture Member Name: *[insert full*

name] ITT No. and title: *[insert ITT number*

and title]

Page *[insert page number]* of *[insert total number]* pages

Annual turnover data			
Year	**Amount** **Currency**	**Exchange rate**	**USD equivalent**
[indicate calendar year]	*[insert amount and indicate currency]*		

Average Annual Turnover *
* Total USD equivalent for all years divided by the total number of years.

FORM CON-1 CURRENT CONTRACT COMMITMENTS / CONTRACTS IN PROGRESS FORM

1. Name of Contract(s)
2. Procuring Entity Contact Information *[insert address, telephone, fax, e-mail address]*
3. Value of outstanding contracts *[current US$ equivalent]*
4. Estimated delivery date
5. Average monthly invoices over the last six months (US$/mon.)

FORM - EXP - 1 - EXPERIENCE

Contracts over *[insert amount]* during the last three years:				
Procuring Entity	**Value**	**Year**	**Goods/Services Supplied**	**Country of Destination**

FORM - PER 1

HISTORICAL CONTRACT NON-PERFORMANCE, AND PENDING LITIGATION AND LITIGATION HISTORY

[The following table shall be filled in for the Tenderer and for each member of a Joint Venture]

Tenderer's Name: .....*[insert full name]* Date: .....*[insert day, month, year]*

Joint Venture Member Name: ..... *[insert full name]* ITT No. and title: .....*[insert ITT number and title]*

Page..... *[insert page number]* of .....*[insert total number]* pages.

Non-Performed Contracts in accordance with Section III, Qualification Criteria andRequirements

☐ Contract non-performance did not occur since 1st January *[insert year]*specified in Section III, Qualification Criteria and Requirements, Sub-Factor 2.1.

☐ Contract(s) not performed since 1st January *[insert year]* specified in Section III, Qualification Criteria and Requirements, requirement 2.1

Year	**Non-performed portion of contract**	**Contract Identification**	**Total Contract Amount (current value, currency, exchange rate and US$ equivalent)**
[insert year]	*[insert amount amount] and percentage]*	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Name of Procuring Entity: *[insert full name]* Address of Procuring Entity: *[insert street/city/country]* Reason(s) for nonperformance: *[indicate main reason(s)]*	*[insert*

Pending Litigation, in accordance with Section III, Qualification Criteria and Requirements

☐ No pending litigation in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.3

☐ Pending litigation in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.3 as indicated below.

Year of dispute	**Amount in dispute (currency)**	**Contract Identification**	**Total Contract Amount (currency), USD Equivalent (exchange rate)**

[insert year]	*[insert amount]*	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: *[insert full name]* Address of Procuring Entity: *[insert street/city/country]* Matter in dispute: *[indicate main issues in dispute]* Party who initiated the dispute: *[indicate "Procuring Entity" or "Supplier"]* Status of dispute: *[Indicate if it is being treated by the Adjudicator, under Arbitration or being dealt with by the Judiciary]*	*[insert amount]*

☐ No consistent history of court/arbitral award decisions in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.4.

☐ Consistent history of court/arbitral award decisions in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.4 as indicated below.

Year of award	**Outcome as percentage of Net Worth**	**Contract Identification**	**Total Contract Amount (currency), USD Equivalent (exchange rate)**
[insert year]	*[insert percentage]*	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: *[insert full name]* Address of Procuring Entity: *[insert street/city/country]* Matter in dispute: *[indicate main issues in dispute]* Party who initiated the dispute: *[indicate "Procuring Entity" or "Supplier"]* Court/ arbitral award decision: *[Indicate if the award decision was against the Tenderer or any member of a joint venture.]*	*[insert amount]*

Page

Price Schedule Forms

*[The Tenderer shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column1ofthe**PriceSchedules**shallcoincidewith theListofGoodsandRelatedServicesspecifiedbytheProcuringEntityintheScheduleofRequirements].*

PRICE SCHEDULE: GOODS MANUFACTURED OUTSIDE KENYA, TO BE IMPORTED

(Group C Tenders, goods to be imported)

Currencies in accordance with ITT 15

Date: _____
ITT No: _____

Alternative No: _____
Page N□□_____ of _____

1 Product code	2 Product	3 Strength	4 Dosage form	5 Unit pack size	6 Qty. offered	7 Unit prices			8 Total unit price [a+b+c]	9 Total price per item [6 x 8]	10 Local agent's commission as a % of CIP price included in quoted price	11 Shipment weight and volume	12 Name of Manufacturer	13 Cnty. Of origin	14 Pharmacopoeial standard
						[a] CIP named place of destination (specify e	[b] Inland transp., insurance & other local costs incidental to delivery if	[c] Other incidental costs as defined in the SCC							
						on)	specified								

Total Tender Price: Currency: In figures: In words: Name of Tenderer *[insert complete name of Tenderer]* Signature of Tenderer *[signature of person signing the Tender]* Date *[Insert Date]*

In the capacity of: *[insert: **title or other appropriate designation**]*

PRICE SCHEDULE: GOODS MANUFACTURED OUTSIDE KENYA, ALREADY IMPORTED*

						(Group C Tenders, Goods already imported) Currencies in accordance with ITT 15						Date: _____ ITT No: _____ Alternative No: _____ Page N□□_____ of _____				
1 Product code	2 Product	3 Strength	4 Dosage form	5 Unit pack size	6 Qty. offered	7					8 Total Unit price [c+d+e]	9 Total price per line item [6x8]	10 Sales and other taxes payable per item if Contract is awarded	11 Name of manufacture-	12 Ctry. of origin	13 Pharma - copoeial standard
						Unit price [a] Unit price including Custom Duties and Import Taxes paid and payable	[b] Custom Duties and Import Taxes paid and payable per unit	[c]=a-b Unit Price net of custom duties and import taxes	[d] Inland transp., insurance & other local costs incidental to delivery	[e] Other incident-al costs as defined in the SCC						

Note:

(i) Column 7[b] Custom Duties and Import Taxes paid should be supported by documentary evidence.

Total Tender Price: _____

Currency: _____

In figures: _____

In words: _____

Name of Tenderer [*insert complete name of Tenderer] Signature* of Tenderer *[signature of person signing the Tender] Date[insert date]*

** [For previously imported Goods, the quoted price shall be distinguishable from the original import value of these Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Procuring Entity. For clarity the Tenderers are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]*

PRICE SCHEDULE: GOODS MANUFACTURED IN KENYA

KENYA _____						(Group A and B Tenders) Currencies in accordance with ITT 15						Date: _____ ITT No: _____ Alternative No: _____ Page N□□_____ of _____		
1	2	3	4	5	6	7			8	9	10	11	12	13
Product code	Product	Strength	Dosage form	Unit pack size	Qty. offered	Unit prices [a] Ex-factory Exwarehouse Ex-showroom Off the shelf	[b] Inland transp., insurance & other local costs incidental to delivery	[c] Other incident-al costs as defined in the SCC	Total unit price [a+b+c]	Total price	Sales and other taxes payable if contract is awarded	Name of manufacturer	Pharmacopoeial standard	Local input in the cost as % of exfactory price in column 7[a]
									Total Tender Price: _____ Currency: _____ In figures: _____ In words: _____					
Name of Tenderer [*insert complete name of Tenderer] Signature* of Tenderer *[signature of person signing the Tender] Date[insert date]*														

In the capacity of: *[insert: title or other appropriate designation]*

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Beneficiary:_____

Request forTenders No:_____

Date:_____

TENDER GUARANTEE No.:_____

Guarantor: _____

1. We have been informed that_____(herein after called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here n after called" the Tender") for the execution of____

   under Request for Tenders No._____("the ITT").

2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.

3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_() upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

(a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or

b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.

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

_____

[signature(s)]

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: —

1. ***WHEREAS*** ..... [*Name of the tenderer]* (hereinafter called "the tenderer") has submitted its tender dated ..... [*Date of submission of tender]* for the ..... *[Name and/or description of the tender]* (hereinafter called "the Tender") for the execution of under Request for Tenders No._____("the ITT").

2. ***KNOW ALL PEOPLE*** by these presents that ***WE*** ..... of ..... [**Name of Insurance Company**] having our registered office at ..... (hereinafter called "the Guarantor"), are bound unto ..... [*Name of Procuring Entity*] (hereinafter called "the Procuring Entity") in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

   Sealed with the Common Seal of the said Guarantor this ___day of _____ 20 __.

3. ***NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION*** is such that if the Applicant:

   a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Principal; or

   b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal;

   c) (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers ("ITT") of the Procuring Entity's Tendering document.

   then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii)twenty-eight days after the end of the Tender Validity Period.

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

_____ _____

[Date] *[Signature of the Guarantor]*

_____ _____

[Witness] *[Seal]*

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

MANUFACTURER'S AUTHORIZATION

[The Tenderer shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This Form of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Tenderer shall include it in its Tender, if so indicated in the TDS.]

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

ITT No.: .....*[insert number of tendering process]*

Alternative No.: .....*[insert identification Noifthisisa Tender for an alternative]*

To: .....*[insertcompletenameofProcuringEntity]*

WHEREAS

We *[insert complete name of Manufacturer]*, who are official manufacturers of *[insert type of goods manufactured]*, having factories at *[insert full address of Manufacturer's factories*], do hereby authorize *[insert complete name of Tenderer]*to submit a Tender the purpose of which is to provide the following Goods, manufactured by us *[insert name and or brief description of the Goods]*, and to subsequently negotiate and sign the Contract.

We here by extend our full guarantee and warranty in accordance with Clause28of the General Conditions of Contract, with respect to the Goods offered by the above firm.

Signed: .....*[insertsignature(s)ofauthorizedrepresentative(s)oftheManufacturer]*

Name: .....*[insertcompletename(s)ofauthorizedrepresentative(s)oftheManufacturer]*

Title: .....*[insert title]*

Dated on_____day of_____,_____*[insert date of signing]*

PART 2 – SUPPLY REQUIREMENTS

SECTION VII – SCHEDULE OF REQUIREMENT
TENDER FOR MEDICAL DRUGS, DRESSINGS AND INFUSIONS

Important Instructions:

1. All drugs tendered must be registered by Pharmacy and Poison's Board of Kenya for use in Kenya. 2.
2. Bidders must clearly indicate the UNIT PACKS and TRADE NAMES for all quoted items.

KISII UNIVERSITY
MEDICAL SERVICES DEPARTMENT
DRUGS, DRESSINGS AND INFUSIONS MAIN ORDER LIST-2024-2025

NO	ITEM/SERVICE DESCRIPTION	UNIT OF ISSUE	QTY	UNIT PRICE BEFORE DISC.	UNIT PRICE AFTER DISC.	BRAND OR ITS EQUIVALENT
1	Aceclofenac 100mg Tabs -1x30	Pack	75			
2	Acecor - P Tabs -1x30	Pack	75			
3	Acyclovir Cream-1x5gm	Tube	50			
4	Adrenaline Inj.-1x10	Pack	2			
5	ABZ 400mg Tabs-1x1	Pack	1,250			
6	Aminosidine 250mg Tabs-1x24	Packet	100			
7	Amitryptilline 25mg Tabs-1x100	Pack	1			
8	Amlovas 5mg Tabs-1x30	Pack	5			
9	Amoxicillin 250mg Capsules-1x100	Pack	75			
10	Amoxicillin 500mg Capsules-1x100	Pack	450			
11	Amoxicillin Syrup-1x100ml	Bottle	50			
12	Ampiclox Syrup-1x100ml	Bottle	20			
13	Ampiclox 500mg Caps-1x100	Pack	135			
14	Anomex Suppositories-1x5	Pack	200			
15	Alerchek 0.1% Eye Drops-1x1	Pc	30			
16	Alerset Tablets-1x30	Pack	125			
17	Artesunate IV 60mg-1x1	Ampoule	200			
18	Foralin Inhaler 200	Pc	20			
19	Soft Drops	Pc	10			
20	Ascoril Expectorant-1x100ml	Bottle	200			
21	ATM 500mg Tabs-1x3	Packet	4,000			
22	Atropine Sulphate 10mg-1x10	Pack	1			
23	Insulin Syringes 0.5mls-1x100	Pack	5			
24	Beclomin Ointment-1x15gm	Tube	200			
25	Benzathine Pen 2.4.mu-1x1	Vial	50			
26	Benzhexol 5mg Tabs-1x100	Pack	2			
27	Benzyl Benzoate Emulsion-1x100ml	Bottle	150			
28	Neuro-Forte Tabs-1x20	Packet	150			
29	Ciprolen-D Eyedrops	Pc	20			

30	Brufen Syrup-1x100ml	Bottle	50			
31	Burnfix Cream -1x10gm	Tube	75			
32	Buscopan Inj.2ml-1x10	Pack	30			
33	Buscopan Plus Tablets-1x40	Pack	75			
34	Buscopan 10mg Tablets-1x100	Pack	300			
35	Calamine Lotion-1x100ml	Bottle	150			
36	Candid B Cream-1x15gm	Tube	450			
37	Candid Cream-1x20gm	Tube	350			
38	Candid V_1 Vaginal Pessary-1x1	Packet	150			
39	Candid V_3 Vaginal Pessary-1x3	Packet	450			
40	Micona Ointment-1x30g	Tube	150			
41	Zinc Sulphate 20mg Tabs-1x100	Pack	2			
42	Catoxymag-N Suspension-100ml	Bottle	700			
43	Cefcy 400mg Tablets-1x5	Packet	1,500			
44	Cetrizine Syrup-1x60ml	Bottle	50			
45	Cetrizine 10mg Tablets-1x100	Pack	360			
46	Ciprofloxacin 500mg-1x10	Pack	450			
47	Cital Syrup-1x100ml	Bottle	700			
48	Clarithromycin 500mg Tablet-1x10	Packet	75			
49	Combicor Tablets-1x10	Packet	20			
50	Cold Caps-1x12	Packet	800			
51	Combivent UDV Solution-1x20	Pack	4			
52	Corcav 625mg Tablets-1x10	Packet	2,000			
53	Corcef IV 1gm -1x1gm	Vial	1,500			
54	Cordoxyl 500mg Capsules-1x10	Packet	500			
55	Corn Cap-1x5	Pack	70			
56	Erostin 10mg Tablets-1x10	Packet	50			
57	Cyclopam-P Tablets-1x100	Pack	45			
58	Cytcan 150mg Caps-1x1	Packet	4,000			
59	Deep Freeze Spray-1x150ml	Can	50			
60	Dentogel	Tube	75			
61	Dextrose 5%-1x500ml	Bottle	150			
62	Dextrose 10%-1x500ml	Bottle	20			
63	Dextrose 50% -1x50ml	Bottle	30			
64	Difil M DS Tabs-1x15	Packet	800			
65	Dispensing Envelops-1x100	Pack	500			
66	Domperidone 10mg Tabs-1x100	Pack	20			
67	Doxycycline 100mg Caps-1x100	Pack	70			
68	Dulcolax 5mg Tabs-1x100	Pack	20			
69	Duo-Artepep 40mg/320mg Tabs-1x9	Packet	30			
70	Dyzol DS Tabs-1x15	Packet	800			
71	Easycort 100mg Inj.-1x100mg	Vial	500			
72	Epanutin 250mg/5ml -1x5	Pack	2			
73	Esose HP Kit-1x7	Pack	100			
74	Esomeprazole 20mg Tabs-1x30	Packet	200			
75	Esomeprazole 40mg Tabs-1x30	Packet	250			
76	Esomeprazole IV 40mg -1x1	Vial	250			
77	Febrex Plus Tabs-1x20	Packet	150			
78	Igol Satchets-1x10	Pack	40			
79	Flamacor Tablets-1x30	Packet	150			
80	Flamoryl-S Tablets-1x10	Packet	250			
81	Flucloxacillin 500mg Caps-1x100	Pack	200			
82	Fopyn Tabs-1x20	Packet	150			

83	Fopyn Fast Gel-1x30g	Tube	200			
84	Funbact- A Cream-1x30gm	Tube	200			
85	Futsil Lotion-1x15ml	Tube	70			
86	Gacet 125 Suppositories-1x10	Packet	5			
87	Gacet 250 Suppositories-1x10	Packet	5			
88	Clindamycin 300mg 1x10	Packet	100			
89	Neogadine Elixir-1x50ml	Bottle	100			
90	Gentamicin Eye Drops-1x1	Tube	100			
91	Lactulose Solution 1x100ml	Bottle	50			
92	Glucomet 500mg Tabs-1x30	Packet	20			
93	Griseofulvin 500mg Tabs-1x100	Pack	90			
94	Hepatitis B Vaccine 1ml (Adult)-1x1	Vial	1000			
95	Hydrochlorothiazide 50mg Tabs-1x100	Pack	3			
96	Hydrocortisone Eye Drops-1x5ml	Tube	50			
97	Hydrocortsone 1% Cream-1x15gm	Tube	200			
98	Hydrogen Peroxide Solution-1x200ml	Bottle	100			
99	Ibufil 200mg Tablets-1x100	Pack	75			
100	Ibufil 400mg Tablets-1x100	Pack	800			
101	Lignocaine Inj.-1x30ml	Vial	50			
102	L-montus 5mg/10mg Tabs-1x30	Packet	300			
103	L-Sign Kit Tablets-1x7	Packet	1,000			
104	Lovir 400mg Tablets-1x25	Packet	60			
105	Losartas-HT Tabs-1x30	Packet	100			
106	Maxidex Eye drop 0.1%-1x5ml	Tube	50			
107	Maxitrol Eye drop-1x5ml	Tube	50			
108	Mepyramine Cream-1x25gm	Tube	50			
109	Hydroxy Urea 500mg Capsules-1x100	Packet	5			
110	Metronidazole IV for Infusion-100ml	Bottle	300			
111	Metronidazole Syrup-100ml	Bottle	50			
112	Metronidazole 200mg Tabs-1x100	Pack	40			
113	Metronidazole 400mg Tabs-1x100	Pack	450			
114	Mixtard 30/70 -1x10ml	Vial	100			
115	Morphine 10mg/ml -1x1ml	Ampoule	40			
116	Muvera 7.5mg Tabs-1x100	Pack	30			
117	Muvera 15mg Tabs-1x100	Pack	30			
118	Multivitamin Syrup-100ml	Bottle	10			
119	Myocor Tabs-1x20	Pack	100			
120	Fericap-CR Caps-1x10	Packet	200			
121	Nifedipine 20mg Tablets-1x100	Pack	50			
122	Nitrofurantoin 100mg Tabs-1x100	Pack	100			
123	Nogluc 5mg Tabs-1x30	Pack	30			
124	Norash Cream -1x20gm	Tube	200			
125	Norfloxacin 400mg Tabs-1x100	Pack	70			
126	Nosic Tablets-1x20	Pack	20			
127	Nystatin Oral Suspension-1x30ml	Bottle	20			
128	OG Kit Tablets-1x4	Packet	150			
129	Olanzepine 5mg Tablets-1x100	Pack	6			
130	Oral Rehydration Satchets-1x1	Sachets	150			
131	Otorex Eardrops-1x10ml	Tube	70			
132	Oncosil Cream 1%-1x15gm	Tube	200			

133	Oncosil 250mg Tabs-1x14	Packet	200			
134	Paracetamol Syrup-1x60ml	Bottle	50			
135	Paracetamol 500mg Tabs-1x100	Pack	1,800			
136	Paludrine 100mg Tabs-1x56	Packet	26			
137	Perfamol IV Infusion -1x100ml	Bottle	800			
138	Pethidine 100mg/2ml -1x2ml	Ampoule	20			
139	Piriton Syrup-1x100ml	Bottle	20			
140	Piriton 4mg Tablets-1x100	Pack	20			
141	Ponstan 500mg Capsules-1x50	Pack	30			
142	Povidone Iodine Solution 10%-1x500ml	Bottle	5			
143	Plasminex Injection-1x10	Pack	20			
144	Prednisolone 5mg Tabs-1x100	Pack	20			
145	Probeta N Eyedrops-1x7.5ml	Tube	250			
146	Pyridoxine Tablets-1x100	Pack	10			
147	Quinine 300mg Tabs-1x100	Pack	4			
148	Rabivax vaccine-1x1ml	Ampoule	70			
149	Relcer Gel-1x180ml	Bottle	250			
150	Remidin Mouthwash-1x100ml	Bottle	500			
151	Ringers Lactate Solution-1x500ml	Bottle	500			
152	Secnidazole 1gm Tabs-1x2	Packet	1,500			
153	Anustat Ointment-1x20g	Tube	100			
154	Soluble insulin 100 IU/ml-1x1	Vial	10			
155	Subyde Gel-1x15gm	Tube	500			
156	Netracortil Eye/Ear Suspension-1x5ml	Tube	100			
157	Sucrafil-O Gel Suspension-1x100ml	Bottle	100			
158	Fanigan Fast Gel-1x30gm	Tube	100			
159	Podosal Ointment-1x15gm	Tube	50			
160	Podosal Paint-1x15gm	Bottle	50			
161	Panash Cream-1x30g	Tube	100			
162	Takol CR 100 mg Caps-1x10	Packet	100			
163	Tetracycline Skin Ointment 3%-1x1	Tube	20			
164	Tinidazole 500mg Tabs-1x4	Packet	3,000			
165	Tramadol 100mg/ml Inj.-1x2ml	Ampoule	200			
166	Tranexa 500mg Tablet-1x30	Packet	50			
167	Tuspel Syrup-1x100ml	Bottle	250			
168	Tuspress Syrup-1x100	Bottle	300			
169	Utivanic 500mg Tabs-1x10	Packet	300			
170	Utivanic 750mg Tabs-1x10	Packet	100			
171	Valium 5mg/ml Inj.-1x2ml	Ampoule	20			
172	V-Druff shampoo-1x120ml	Bottle	10			
173	Ventolin Inhaler-1x1	Pc	70			
174	Vitamin K 10mg Inj.-1x10	Pack	20			
175	VoliniI Gel-1x30gm	Tube	200			
176	Ximecor 500mg Tablet-1x10	Packet	1,800			
177	Zupricin Ointment-1x15gm	Tube	50			
178	Normal Saline Infusion 1x500ml	Bottle	2,000			
179	Loperamide caps 1x6	Packet	400			
180	Acnesol Cream 1x25gm	Tube	50			
181	Caustic pencil 40%	Pc	50			
182	Pernex 5% Cream 1x20gm	Tube	50			
183	Emitino 4mg Tabs 1x10	Packet	50			

184	Emitino Inj 1x10	Pack	50			
185	Silverex Cream	Tube	200			
186	Zosdom SR-1x30	Packet	500			
187	Quardrajel -1x10gm	Tube	200			
188	Anustat Ointment 1x20g	Tube	150			
189	Deep Heat Period Pain Patch 1s	Pc	100			
190	Vitamin C Tabs 1g 1x20	Pack	200			
191	Artificial tears-1's	Tube	50			
192	Folic Acid Tabs-1x100	Pack	20			
193	Ferrous Sulphate Tabs 1x100	Pack	20			
194	Caustic pencil 95%	Pc	30			
195	Pregabalin 150mg Tabs 1x100	Pc	50			
196	Primolut N Tabs-1x30	Packet	200			
197	Duophyllim-1x15ml	Tube	50			
198	Ephedrine Nasal Drops(adult)-1x5ml	Tube	100			
199	Gauze Roll-1x750gm	Roll	50			
200	Cotton Wool-1x400gm	Roll	100			
201	IV Giving Sets-1x25	Pack	100			
202	Latex Gloves-1x100	Pack	300			
203	Surgical Blades Size ss 23-1x100	Pack	10			
204	Sodium Hypochlorite-1x5Lt	Jerrycan	600			
205	Autoclave Tape 4"-1x1	Pc	10			
206	Crepe Bandage 7.5cm-1x1	Pc	1,000			
207	2cc Syringes-1x100	Pack	20			
208	5cc Syringes-1x100	Pack	60			
209	10cc Syringes-1x100	Pack	30			
210	20cc syringes-1x100	Pack	300			
211	Insulin syringes 1ml-1x100	Pack	20			
212	Solusets 1x1	Pc	30			
213	Surgical Gloves-(Non powdered)	Pack	400			
214	Sofratulle 1x10	Pack	400			
215	Branular G20-1x100	Pack	3			
216	Branular G22-1x100	Pack	10			
217	Branular G24-1x100	Pack	10			
218	Zinc Oxide Strapping-3"(kings)-1x1	Pc	100			
219	Surgical Masks-1x50	Pack	500			
220	Vicril Suture 2/0-1x12	Pack	8			
221	Nylon Suture 2/0 Metric 3-1x12	Pack	4			
222	Acetic Acid-1x1Litre	Bottle	2			

1. **TECHNICAL SPECIFICATIONS**

PACKAGING

The following are some of the packaging condition for the tender: -

a) Infusions

For all plastic containers a study at least covering sterility, pyrogenicity, acute toxicity and physicochemical test should accompany the offer during the supply of the products. The concentration of electrolytes shall be stated on the label in milli equivalent (Mq). The label of the product shall also indicate the quantity of ingredients in terms of weight or percentage concentration.

b) Ampoules and Vials

- Ampoules must be packed in rigid paperboard boxes, strong enough to resist crushing during transportation and storage in units of 5, 10 or similar multiples up to a maximum of 100 (10x 10). All ampoules must have a break line and be easy to break.

c) Topical preparations

Content with less than 50gm shall be packed in leak-proof collapsible metallic or plastic tube, for volumes above 50gm in aluminum foil or plastic jars with close fittings caps or slip on lids. Each individual tube must be packed in a rigid paper board box and labeled appropriately

d) Elixir, Oral Suspension & Syrup

These should be packed in tamper proof cap amber colored glass or non- transparent plastic bottles, with appropriate dispensing measure in each pack, packed in well-padded strong carton. Bottles of powder for oral suspension should have a clear marking to show the required volume and or clear direction for reconstitution. The cap and stopper on every bottle should be watertight and leak-proof.

e) Tablets, Capsules, Caplets

These should be packed in blister pack or laminated aluminum foil, packed in well closed and light resistant containers of appropriate size. The containers should be tamper-proof and sealed. Any loose packing must be accompanied by an acceptable justification from the manufacturer.

f) Suppositories, pessaries

These must be packed in ready to dispense patient packs accompanied by suitable applicator for use in administration. Each must be individually sealed and packed.

3. INSPECTIONS AND TESTS

The following inspections and tests shall be performed: *[insert list of inspections and tests]*.

PART 3 - CONTRACT

SECTION VIII - GENERAL CONDITIONS OF CONTRACT

1. Definitions

1.1 The following words and expressions shall have the meanings here by assigned to them:

(a) "Completion" means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.

(b) "Contract Documents" means the documents listed in the Contract Agreement, including any amendments thereto.

(c) "Contract Price" means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.

(d) "Contract" means the Contract Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.

(e) "Day" means calendar day. "GCC" means the General Conditions of Contract.

(f) "Goods" means all of the pharmaceuticals including nutritional supplement and oral and injectable forms of contraception, vaccines, and condoms Supplier is required to supply to the Procuring Entity under the Contract.

(g) **"Laws"** means all national legislation, statutes, ordinances, and regulations and by-laws of any legally constituted public authority.

(h) **"Letter of Acceptance"** means the letter of formal acceptance, signed by the contractor. Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.

(i) **"Procuring Entity"** means the Entity named in the Special Conditions of Contract.
"Procuring

Entity" means the entity purchasing the Goods and Related Services, as specified **in the SCC.**

(j) "Public Procurement Regulatory Authority (PPRA)" shall mean the agency responsible in Kenya for regulating and monitoring the public procurement unction

(k) "Registration Certificate" means the certificate of registration or other documents in lieu thereof establishing that the Goods supplied under the Contract are registered for use in Kenya in accordance with the Applicable Law.

(l) "Related Services" means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.

(m) "Supplier" means the person, private or government entity, or a combination of the above, who's Tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the Contract Agreement.

(n) "The Project Site," where applicable, means the place named **in the SCC.**

(o) SCC" means the Special Conditions of Contract.

2. Contract Documents

2.1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole. The documents forming the Contract shall be interpreted in the following order of priority:

a) The Contract Agreement

b) The Letter of Acceptance

c) The Special Conditions–Part A,

d) The Special Conditions–Part B

e) The General Conditions of Contract

f) The Form of Tender,

g) The Specifications and Schedules of the Drawings (if any), and

h) The Schedules of Requirements and any other documents forming part of the Contract.

3. Fraud and Corruption

3.1 The Procuring Entity requires compliance with anti-corruption laws and guidelines and its prevailing sanctions policies and procedures as set forth in Laws of Kenya.

3.2 The Procuring Entity requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Tendering 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.

4. Interpretation

4.1 If the context so requires it, singular means plural and vice versa.

4.2 Incoterms

a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by Incoterms specified **in the SCC**.

b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified **in the SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Procuring Entity and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect there to made prior to the date of Contract.

4.4 Amendment

No amend mentor other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

4.5 Non waiver

a) Subject to GCC Sub-Clause4.5 (b)below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contractor the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

If any provision or condition of the Contract is prohibited or rendered in valid or unenforceable,

such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

5. Language

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Procuring Entity, shall be written in the English language. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the Contract, this translation shall govern.

5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.

6. Joint Venture, Consortium or Association

6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Procuring Entity.

7. Eligibility

7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontract or shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

8. Notices

8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified **in the SCC.** The term "in writing" means communicated in written form with proof of receipt.

8.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

9. Governing Law

9.1 The Contract shall be governed by and interpreted in accordance with the laws of Kenya.

9.2 Throughout the execution of the Contract, the Supplier 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 a prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

10. Settlement of Disputes

10.1 The Procuring Entity and the Supplier shall make every effort to resolve amicably by direct

negotiation any disagreement or dispute arising between them under or in connection with the Contract.

10.1.1 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as herein after provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

10.2 Arbitration proceedings shall be conducted as follows:

10.2.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause10.1shall be finally settled by arbitration.

10.2.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within thirty days of the occurrence or discovery of the matter or issue giving rise to the dispute.

10.2.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.

10.2.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any due payments.

10.2.5 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for the dispute given in its notice of a claim or dispute.

10.2.6 Arbitration may be commenced prior to or after delivery of the goods. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the delivery of goods.

10.2.7 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

10.3 Arbitration Proceedings

10.3.1 Arbitration proceedings with both national suppliers will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with are quest to submit it to arbitration and to concur in the appointment of an Arbitrator with in thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person or persons to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

i) Kenya National Chamber of Commerce

ii) Chartered Institute of Arbitrators (Kenya Branch)

iii) The Law Society of Kenya

10.3.2 The institution written to first by the aggrieved party shall take precedence overall other institutions.

10.4 Arbitration with Foreign Suppliers

10.4.1 Arbitration with foreign suppliers shall be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules.

10.4.2 The place of arbitration shall be a location specified in the **SCC;** and the arbitration shall be conducted in the language for communications defined in SubClause1.4 [Law and Language].

10.5 Alternative Arbitration Proceedings

10.5.1 Alternatively, the Parties may refer the matter to the Kisii Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

11. Inspections and Audit by the PPRA

11.1 The Supplier shall keep, and shall make all reasonable efforts to cause its Subcontractors and sub-consultants to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.

11.2 Pursuant to paragraph 2.2e. of Appendix to the General Conditions the Supplier shall permit and shall cause its subcontractors and sub-consultants to permit, PPRA and/or persons appointed by the PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/ or contract execution, and to have such accounts and records audited by auditors appointed by the PPRA. The Supplier's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 3.1 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination.

12. Scope of Supply

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

13. Delivery and Documents

13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified **in the SCC.**

14. Supplier's Responsibilities

14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance withGCCClause12, and the Delivery and Completion Schedule, as per GCCClause13.

15 Contract Price

15.1 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorized **in the SCC.**

16. Terms of Payment

16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified **in the SCC.**

16.2 The Supplier's Invitation to payment shall be made to the Procuring Entity in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCCClause13 and upon fulfillment of all other obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Procuring Entity, but in no case later than sixty (60) days after submission of an invoice or Invitation to payment by the Supplier, and after the Procuring Entity has accepted it.

16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the Tender price is expressed.

16.5 In the event that the Procuring Entity fails to pay the Supplier any payment by its due date or within the period set forth **in the SCC,** the Procuring Entity shall pay to the Supplier interest on the amount of such delayed payment at the rate shown **in the SCC,** for the period of delay until payment has been made in full, whether before or after judgment t or arbitrage award.

17. Taxes and Duties

17.1 For goods manufactured outside Kenya, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Kenya.

17.2 For goods Manufactured within Kenya, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Procuring Entity.

17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Kenya, the Procuring Entity shall use its Lowest efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

18. Performance Security

18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a Performance Security for the performance of the Contract in the amount specified **in the SCC.**

18.2 The proceeds of the Performance Security shall be payable to the Procuring Entity as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency (ies) of the Contract, or in a freely convertible currency acceptable to the Procuring Entity; and shall be in one of the format stipulated by the Procuring Entity **in the SCC,** or in another form at acceptable to the Procuring Entity.

18.4 The Performance Security shall be discharged by the Procuring Entity and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise **in the SCC.**

19. Certification of Goods in Accordance with Laws of Kenya

19.1 If required under the Applicable Law, Goods supplied under the Contract shall be registered for use in Kenya. The Procuring Entity undertakes to cooperate with the Supplier to facilitate registration of the Goods for use in Kenya as specified **in the SCC**.

19.2 Unless otherwise specified **in the SCC,** the Contract shall become effective on the date("the Effective Date") that the Supplier receives written notification from the relevant authority in Kenya that the Goods have been registered for use in Kenya.

19.3 If thirty (30) days, or such longer period specified **in the SCC,** elapse from the date of Contract signing and the Contract has not become effective pursuant to Sub-Clause 19.2 above, then either party may, by not less than seven (7) days' written notice to the other party, declare this Contract null and void. In such event, the Supplier's Performance Security shall be promptly returned.

20. Confidential Information

20.1 The Procuring Entity and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Procuring Entity shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the performance of the Contract.

20.3 The obligation of a party under GCC Sub-Clauses20.1 and 20.2 above, however, shall not apply to information that:

a) the Procuring Entity or Supplier need to share with the PPRA or other institutions participating in the financing of the Contract;

b) now or here after enters the public domain through no fault of that party;

c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties here to prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

21. Subcontracting

21.1 The Supplier shall notify the Procuring Entity in writing of all subcontracts awarded under the Contract if not already specified in the Tender. Such notification, in the original Tender or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

22. Specifications and Standards

22.1 The Goods supplied under this Contract shall conform to technical specifications and standards mentioned in Section VII, Schedule of Requirements and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.

23. Packing and Documents

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

Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified **in the SCC,** and in any other instructions ordered by the Procuring Entity.

24. Insurance

24.1 Unless otherwise specified **in the SCC, the** Goods supplied under the Contract shall be fully insured-in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC.**

25. Transportation and Incidental Services

25.1 Unless otherwise specified **in the SCC,** responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, specified **in SCC:**

a) Performance or supervision of on-site assembly and/or start-up of the supplied Goods;

b) Furnishing of tools required for assembly and/or maintenance of the supplied Goods;

c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;

d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve
the Supplier of any warranty obligations under this Contract; and

e) training of the Procuring Entity's personnel, at the Supplier's plant and/or onsite, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services

26. Inspections and Tests

26.1 The Supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as are specified **in the SCC.**

26.2 The inspections and tests may be conducted on the premises of the Supplier or the manufacturer, at point of delivery, and /or at the Goods' final destination, or in another place in Kenya as specified **in the SCC.** Subject to GCCSub-Clause26.3, if conducted on the premises of the Supplier or the manufacturer, all reasonable facilities and assistance, including access to production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

26.3 The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

a) Said inspection and testing is for the Procuring Entity's account. In the event that inspection and testing is required prior to dispatch, the Goods shall not be shipped unless a satisfactory inspection and quality control report has been issued in respect of those Goods.

b) The Supplier may have an independent quality test conducted on a batch ready for shipment. The cost of such tests will be borne by the Supplier.

c) Upon receipt of the Goods at place of final destination, the Procuring Entity's representative shall inspect the Goods or part of the Goods to ensure that they

conform to the condition of the Contract and advise the Procuring Entity that the Goods were received in apparent good order. The Procuring
Entity will issue an Acceptance Certificate to the Supplier in respect of such Goods (or part of Goods). The Acceptance Certificate shall be issued within ten
(10) days of receipt of the Goods or part of Goods at place of final destination.

26.5 Where the Supplier contests the validity of the rejection by the Procuring Entity or his representative, of any inspection as required by 26.4 above conducted before shipment or at ultimate destination, whether based on product or packing grounds, a sample drawn jointly by the Supplier and Procuring Entity or his or her representative and authenticated by both, will be forwarded for umpire analysis within four weeks of the time the Supplier contests to an independent agency mutually agreed by the Procuring Entity and Supplier. The umpire's finding, which will be promptly obtained, will be final and binding on both parties. The cost of umpire analysis will be borne by the losing party;

26.6 The Procuring Entity may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

26.7 The Supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.

26.8 The Procuring Entity may reject any Goods or any part there of that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub-Clause26.4.

26.9 The Supplier agrees that neither the execution of attest and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.7, shall release the Supplier from any warranties or other obligations under the Contract.

27. Liquidated Damages

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the Date (s) of delivery or perform the Related Services within the period specified in the Contract, the Procuring Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified **in the SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified **in the SCC.** Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to GCCClause35.

28. Warranty

28.1 All goods must be of fresh manufacture and must bear the dates of manufacture and expiry.

The Supplier further warrants that all Goods supplied under the Contract will have remaining a minimum of five-sixths (5/6) of the specified shelf life upon delivery at port/ airport of entry for goods with a shelf life of more than two years and three-fourths (3/4) for goods with shelf

life of two years or less, unless otherwise specified **in the SCC;** have "overages" within the ranges set forth in the Technical Specifications, where applicable; are not subject to recall by the applicable regulatory authority due to unacceptable quality or an adverse drug reaction; and in every other respect willfully comply in all respects with the Technical Specifications and with the conditions laid down in the Contract.

28.2 The Procuring Entity shall have the right to make claims under the above warranty for three months after the Goods have been delivered to the final destination indicated in the Contract. Upon receipt of a written notice from the Procuring Entity, the Supplier shall, with all reasonable speed, replace the defective Goods without cost to the Procuring Entity. The Supplier will be entitled to remove, at his own risk and cost, the defective Goods once the replacement Goods have been delivered.

28.3 In the event of a dispute by the Procuring Entity, a counter-analysis will be carried out on the manufacturer's retained samples by an independent neutral laboratory agreed by both the Procuring Entity and the Supplier. If the counter analysis confirms the defect, the cost of such analysis will be borne by the Supplier as well as the replacement and disposal of the defective goods. In the event of the independent analysis confirming the quality of the product, the Procuring Entity will meet all costs for such analysis.

28.4 If, after being notified that the defect has been confirmed pursuant to GCC Sub Clause 28.2 above, the Supplier fails to replace the defective Goods within the period specified **in the SCC** the Procuring Entity may proceed to take such remedial action as may be necessary, including removal and disposal, at the Supplier's risk and expense and without prejudice to any other rights that the Procuring Entity may have against the Supplier under the Contract. The Procuring Entity will also be entitled to claim for storage in respect of the defective Goods for the period following notification and deduct the sum from payments due to the Supplier under this Contract. *Recalls.* In the event any of the Goods are recalled, the Supplier shall notify the Procuring Entity within fourteen (14) Days, providing full details of the reason for the recall and promptly replace, at its own cost, the items covered by the recall with Goods that fully meet the requirements of the Technical Specification and arrange for collection or destruction of any defective Goods. If the Supplier fails to fulfill its recall obligation promptly, the Procuring Entity will, at the Supplier's expense, carry out the recall.

29. Patent Indemnity

29.1 The Supplier shall, subject to the Procuring Entity's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Procuring Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design ,trade mark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

a) The installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and

b) the sale in any country of the products produced by the Goods. Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced there by in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring Entity shall promptly give the Supplier a notice thereof, and the Supplier may at its own

expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.

29.4 The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

29.5 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

30 Limitation of Liability

31.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 29,

a) the Supplier shall not be liable to the Procuring Entity, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity and

b) the aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Procuring Entity with respect to patent infringement.

31. Change in Laws and Regulations

31.1 Unless otherwise specified in the Contract, if after the date of 30 days prior to date of Tender submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of Kenya where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has there by been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCCClause15.

32. Force Majeure

32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause there of. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

33. Change Orders and Contract Amendments

33.1 The Procuring Entity may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity;

b) the method of shipment or packing;

c) the place of delivery; and

d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Procuring Entity's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties. This includes, if specified **in the SCC**, any variation to the contract resulting from a value engineering proposal agreed between the parties.

34. Extensions of Time

34.1 If at any time during performance of the Contract, the Supplier or its sub-contractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCCClause32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

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35.Termination

35.1 Termination for Default

a) The Procuring Entity, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:

i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCCClause34;

ii) if the Supplier fails to perform any other obligation under the Contract; or

iii) if the Supplier, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph 2.2a of the Appendix to the GCC in competing for or in executing the Contract.

b) In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related
Services similar to those undelivered or not per formed, and the Supplier shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

The Procuring Entity may at any time terminate the Contract by giving notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring Entity.

35.3 Termination for Convenience.

The Procuring Entity, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect:

i) To have any portion completed and delivered at the Contract terms and prices; and/or

ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

36. Assignment

36.1 Neither the Procuring Entity nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

37. Export Restriction

Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Procuring Entity, to Kenya or to the use of the

products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Procuring Entity that

it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Procuring Entity's convenience pursuant to Sub-Clause35.3.

APPENDIX TO GENERAL CONDITIONS

Section IX-Special Conditions of Contract

The following Special Conditions of Contract(SCC) shall supplement and/ or amend the General Conditions of Contract(GCC). Whenever there is a conflict, the provisions here in shall prevail over those in the GCC.

Number of GC Clause	**Amendments of, and Supplements to, Clauses in the General Conditions of Contract**
GCC 1.1(i)	The Procuring Entity is: Kisii University
GCC 1.1 (n)	The Project Site(s)/Final Destination(s) is/are: , Kisii University Main Campus.
GCC 4.2 (a)	The meaning of the trade terms shall be as prescribed by Incoterms.
GCC 4.2 (b)	The version edition of Incoterms shall be *2010*
GCC 5.1	The language shall be: English
GCC 8.1	For **notices**, the Procuring Entity's address shall be:
GCC 10.2	Postal address 408 -40200 Kisii Physical Address Main Campus, Kisii Electronic mail address: *procurement@kisiiuniversityi.ac.ke* The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:
GCC 10.4.2	***(b) Contracts with Supplier national of Kenya:*** In the case of a dispute between the Procuring Entity and a Supplier who is a national of Kenya, the dispute shall be referred to adjudication or arbitration in accordance with the laws of Kenya. The place of arbitration shall be Kisii, Kenya.
GCC 13.1	***For Goods from within Kenya:***

	Upon or before delivery of the Goods, the Supplier shall notify the Procuring Entity in writing and deliver the following documents to the Procuring Entity:

(i) two originals and two copies of the Supplier's invoice, showing Procuring Entity, the Contract number, Goods' description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal;

(ii) two copies of delivery note, railway consignment notes, road

Number of GC Amendments of, and Supplements to, Clauses in the General Conditions of

Clause	Contract
	consignment note, truck or air waybill, or multimodal transport document showing Procuring Entity as *[enter correct name of Procuring Entity for customs purposes]* and delivery through to final destination as stated in the Contract; (iii) copy of the Insurance Certificate, showing the Procuring Entity as the beneficiary; (iv) four copies of the packing list identifying contents of each package; (v) one original of the manufacturer's or Supplier's Warranty certificate covering all items supplied; (vi) one original of the Supplier's Certificate of Origin covering all items supplied; (vii) original copy of the Certificate of Inspection furnished to Supplier by the nominated inspection agency and six copies (where inspection is required) (viii) other procurement-specific documents required for delivery/payment purposes. The above documents shall be received by the Procuring Entity before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.
GCC 15.1	The prices charged for the Goods supplied and the related Services performed "*shall not,*" be adjustable.
GCC 16.1	**Payment for Goods and Services supplied from within Kenya:**

Payment for Goods and Services supplied from within Kenya shall be made in Kenya shillings as follows:

On Acceptance: 100 percent of the Contract Price shall be paid to the Supplier within thirty (45) days after the date of the acceptance certificate for the respective delivery issued by the Procuring Entity.

GCC 16.5 The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be 45 days.

The interest rate that shall be applied is *[insert number] %*

GCC 18.1 A Performance Security *"shall" be required]*

The amount of the Performance Security shall be: 10 Percent

Number of GC **Amendments of, and Supplements to, Clauses in the General Conditions of**

Clause	Contract
GCC 18.3	If required, the Performance Security shall be in the form of: *a Performance Bond"]* The Performance security shall be denominated in Kenya Shillings
GCC 18.4	Discharge of the Performance Security shall take place at the end of the contract period
GCC 23.2	The packing, marking and documentation within and outside the packages shall be as prescribed in the specifications
GCC 24.1	The insurance coverage shall be as specified in the Incoterms.
GCC 25.1	Responsibility for transportation of the Goods shall be as specified in the Incoterms.
GCC 25.2	Incidental services to be provided are: None
GCC 26.1	The inspections and tests shall be as prescribed by the user department
GCC 26.2	The Inspections and tests shall be conducted at: University Health Services
GCC 27.1	The liquidated damage shall be: 0.5 % per week
GCC 27.1	The maximum number of liquidated damages shall be: 10 %
GCC 28.1	*No changes to GCC 28.1*
GCC 28.4	The period for replacement shall be 14 Days

SECTION X - CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Tenderer after Contract award.

Table of Forms

Notification of Intention to Award

Request for Review

Letter of Award

Contract Agreement

Performance Security

Advance Payment Security

Beneficial Ownership Disclosure Form

1. NOTIFICATION OF INTENTION TO AWARD

[This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender.]

[*Send this Notification to the Tenderer's Authorized Representative named in the Tenderer Information Form*]

For the attention of Tenderer's Authorized Representative Name: .....*[insert Authorized Representative's name]*

Address: .....*[insert Authorized Representative's Address]* Telephone/Fax numbers: .....*[insert Authorized Representative's telephone/fax numbers]*

Email Address: .....*[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

DATE OF TRANSMISSION: This Notification is sent by: .....*[email/fax]* on *[date]* (local time)

Notification of Intention to Award Procuring Entity: .....*[insert the name of the Procuring Entity]*

Contract title: .....*[insert the name of the contract]*

ITT No: .....*[insert ITT reference number from Procurement Plan]*

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 Tender, and/or

b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

1) The successful Tenderer

Name:	[*insert name of successful Tenderer*]
Address:	[*insert address of the successful Tenderer*]
Contract price:	[*insert contract price of the successful Tender*]

) **Other Tenderers [INSTRUCTIONS:** insert names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as readout.]

Name of Tenderer	**Tender price**	**Evaluated Tender price (if applicable)**
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]
[*insert name*]	[*insert Tender price*]	[*insert evaluated price*]

3) Reason/s why your Tender was unsuccessful

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

4) How to request a debriefing

DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (local time).

You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Tenderer, contact details; and address the Invitation to debriefing as follows:

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

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

Agency: *[insert name of Procuring Entity]*

Email address: *[insert email address]*

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

If your Invitation to a debriefing is received within the 3 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are un able to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

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

If the deadline to request a debriefing has expired, you may still request a de briefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.

5) How to make a complaint

Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, *[insert date]* (local time).

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

Attention: *[insert full name of person, if applicable]* **Title/position**: *[insert title/position]* **Agency**: *[insert name of Procuring Entity]* **Email address**: *[insert email* address*]* **Fax number**: *[insert fax number]* ***delete if not used***

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

Further information:
Further information: For more information, refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website info@ppra.go.ke or complaints@ppra.go.ke provides a useful explanation of the process, as well as a sample Form of complaint.

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submit ted a Tender in this tendering process, and is the recipient of a Notification of Intention to Award.
2. The complaint can only challenge the decision to award the contract. 3. You must submit the complaint with in the period stated above.
4. You must include, in your complaint, all of the information required by the Procurement Regulations (as described in Annex III).

6) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Stand Still Period lasts ten (10) Business Days after the date of transmission of this Notification of Intention to Award. The Standstill Period may be extended as stated in Section 4 above.

If you have any questions regarding this Notification, please do not hesitate to contact us. On behalf of the Procuring Entity:

Signature:

_____

Name:

_____

Title/position:

_____

Telephone:

_____

Email:

_____

2. REQUEST FOR REVIEW

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO……. OF……..…..20……...

BETWEEN

……...……. APPLICANT

AND

……RESPONDENT (Procuring Entity)

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

REQUEST FOR REVIEW

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

1.

2.

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

1.

2.

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

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

SIGNED

Board Secretary

3. LETTER OF AWARD

[letterhead paper of the Procuring Entity] [date] To: *[name and address of the Supplier]*

Subject: ***Notification of Award Contract No.***.....

This is to notify you that your Tender dated.....***[insert date]*** .....for execution of the..... ***[insert name of the contract and identification number, as given in the SCC]*** .....for the Accepted Contract Amount of..... ***[insert amount in numbers and words and name of currency]***, as corrected and modified in accordance with the Instructions to Tenderers is here by accepted by our Agency.

You are requested to furnish the Performance Security within 30days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X, Contract Forms, of the tendering document.

Authorized Signature: Name

and Title of Signatory: Name

of Agency:

Attachment: Contract Agreement

4. CONTRACTAGREEMENT

[The successful Tenderer shall fill in this form in accordance with the instructions indicated]

THIS AGREEMENT made the *[insert: **number**]* day of [*insert: **month**], [insert: **year**]*.

BETWEEN

1) *[insert complete name of Procuring Entity]*, a *[insert description of type of legal entity, for example, an agency of the Ministry of.... of the Government of Kenya, or corporation in Kenya* and having its principal place of business at *[insert address of Procuring Entity**]*** (hereinafter called "the Procuring Entity"), of the one part, and

2) *[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (herein after called "the Supplier"), of the other part:

WHEREAS the Procuring Entity invited Tenders for certain Goods and ancillary services, viz., *[insert brief description of Goods and Services]*and has accepted a Tender by the Supplier for the supply of those Goods and Services.

The Procuring Entity and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to the min the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail overall other contract documents. a) The Form of Acceptance

b) The Form of Tender

c) the Addenda Nos. (if any)

d) Special Conditions of Contract e)

General Conditions of Contract

f) The Specification (including Schedule of Requirements and Technical Specifications)

g) the completed Schedules (including Price Schedules)

h) any other document listed in GCC as forming part of the Contract

3. In consideration of the payments to be made by the Procuring Entity to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Procuring Entity to provide the Goods and Services and to remedy defects therein conformity in all respects with the provisions of the Contract.

4. The Procuring Entity here by covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS where of the parties here to have caused this Agreement to be executed in accordance with the laws of *Kenya* on the day, month and year indicated above.

For and on behalf of the Procuring Entity

Signed: _____ *[insert signature]* in the capacity of *[insert title or other appropriate designation]* in the

presence of *[insert identification of official witness]* For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]* in the capacity of *[insert title or*

other appropriate designation] in the presence of *[insert identification of official witness]*

5. PERFORMANCE SECURITY

Bank Guarantee *[The bank, as requested by the successful Tenderer, shall fill in this form in accordance with the instructions indicated] [Guarantor letterhead or SWIFT identifier code]* Beneficiary: .....

[insert name and Address of Procuring Entity]

Date: .....*[Insert date of issue]*

PERFORMANCE GUARANTEE No.: .....*[Insert guarantee reference number]*

Guarantor: .....*[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that.....*[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. [insert reference number of the contract] dated [insert date] with the Beneficiary, for the supply of.....*[insert name of contract and brief description of Health Goods and related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total amount of.....*[insert amount in figures]* (.....) *[insert amount in words]*,[1]such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation (s)under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the.....Day of.....,2.....[2], and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is here by excluded.

[Signature]

Note: All italicized text (including foot notes) is for use in preparing this form and shall be deleted from the final product.

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[1] *TheGuarantorshallinsertanamountrepresentingthepercentageoftheAcceptedContractAmountspecifiedintheFormofAcceptance, and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

[2] *Insert the date twenty-eight days after the expected completion date as described in GC Clause 18.4. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the ProcuringEntitywouldneedtorequestanextensionofthisguaranteefromtheGuarantor.Suchrequest must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the endofthepenultimateparagraph: "TheGuarantoragreestoaone-timeextensionofthisguaranteeforaperiodnotto exceed[sixmonths][oneyear], inresponsetotheBeneficiary'swrittenInvitationtosuchextension, suchrequesttobepresentedtotheGuarantorbeforetheexpiry of the guarantee.*

6. ADVANCE PAYMENT SECURITY

[Guarantor letter head or SWIFT identifier code]

Beneficiary: .....*[Insert name and Address of Procuring Entity]*

Date: .....*[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: .....*[Insert guarantee reference number]*

Guarantor: .....*[Insert name and address of place of issue, unless indicated in the letter head]*

We have been informed that.....*[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (here in after called "the Applicant") has entered into Contract No. .....*[insert reference number of the contract]* dated.....*[insert date]* with the Beneficiary, for the execution of.....*[insert name of contract and brief description of Health Goods and related Services]* (herein after called "the Contract").

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

At the request of the Applicant, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of.....*[insert amount in figures]* (.....) *[insert amount in words]*[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

a) Has used the advance payment for purposes other than toward delivery of Goods; or

b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number.....*[insert number]*at.....*[insert name and address of Applicant's bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, has been certified for payment, or on the.....*[insert day]* day of..... *[insert month]*, 2 *[insert year]*, 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 (including foot notes) is for use in preparing this form and shall be deleted from the final product.*

[1] *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.*

7. BENEFICIAL OWNERSHIP DISCLOSURE FORM

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

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or in directly 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 Tenderer.*

Tender Reference No.: _____ [*insert identification no*] Name of the Assignment: *[insert name of the assignment]* to:

_____*[insert complete name of Procuring Entity]*

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

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

Details of beneficial ownership

Identity of Beneficial Owner	**Directly or indirectly holding 25% or more of the shares (Yes / No)**	**Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)**	**Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer (Yes / No)**

[include full name (last, middle, first), nationality, country of residence]

OR

ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.

OR

We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding25% 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 Tenderer]"

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

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

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

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

Date signed ..... [insert date of signing] day of..... [Insert month], [insert year]