



**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
(ODPP)**

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NATIONAL OPEN TENDER

**PROVISION OF MEDICAL INSURANCE AND LAST EXPENSE COVER
FOR THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
(ODPP) STAFF**

TENDER REF. NO. ODPP/OT/001/2024-2025

**CLOSING DATE: TUESDAY 3RD SEPTEMBER, 2024
AT 11.00AM**

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INVITATION TO TENDER

20TH AUGUST, 2024

PROCURING ENTITY: OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

CONTRACT NAME AND DESCRIPTION: PROVISION OF MEDICAL INSURANCE AND LAST EXPENSE COVER FOR THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP) STAFF

1. The **Office of the Director of Public Prosecutions** invites sealed tenders for the provision of Insurance Services, i.e. **PROVISION OF MEDICAL INSURANCE AND LAST EXPENSE COVER FOR THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP) STAFF**. The contract will be for a period of two years subject to annual performance review.
2. Tendering will be conducted under open competitive (National) tendering method using a standardized tender document and is open to all qualified and interested Tenderers.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office working hours i.e. **0800 to 1230 hours and 1430 to 1650 hours** at the address given below.
4. Tender documents may be obtained electronically from the Websites www.odpp.go.ke and www.tenders.go.ke.
5. Tender documents may be viewed and downloaded for free from the website www.odpp.go.ke and www.tenders.go.ke. Tenderers who download the tender document must forward their particulars immediately to procurement@odpp.go.ke cc: odppprocurement@gmail.com to facilitate any further clarification or addendum.
6. All Tenders must be accompanied by a **Tender Security of Kshs.1,000,000 (One Million Kenya Shillings) valid for 150 days** in form of a guarantee from a bank or financial institution licensed by the Central Bank of Kenya or an insurance company licensed by the Insurance Regulatory Authority payable to the Office of the Director of Public Prosecutions (Self-guaranteed tender securities are not allowed).
7. The Tenderer shall **chronologically paginate all pages** of the tender documents submitted in the format 1,2,3,.....
8. Completed tenders must be delivered to the address below on or before **Tuesday, 3rd September, 2024 at 11.00am**.
9. Electronic Tenders will **not** be permitted.
10. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
11. Late tenders will be rejected.
12. ODPP reserves the right to accept or reject any tender and may annul the tendering process and reject all tenders at any time prior to contract award without thereby incurring any liability to the affected tenderer or tenderers.
13. The addresses referred to above are:
 - A. **Address for obtaining further information and for purchasing tender documents**
Office of the Director of Public Prosecutions
ODPP House, Nairobi, Upperhill, Ragati Road
P.O Box 30701-00100
+254 2732090/2732240
procurement@odpp.go.ke cc: odppprocurement@gmail.com

B. Address for Submission of Tenders.

*Office of the Director of Public Prosecutions
P.O Box 30701-00100
ODPP House, Nairobi, Upperhill, Ragati Road
Tender/Quotation Box - Ground Floor*

*Bulky tenders which will not fit in the tender box shall be delivered to the Procurement Office,
2nd floor East Wing.*

C. Address for Opening of Tenders.

*Office of the Director of Public Prosecutions
ODPP House, Nairobi, Upperhill, Ragati Road*

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FOR: DIRECTOR OF PUBLIC PROSECUTIONS

PART 1 - TENDERING PROCEDURES

SECTION I: INSTRUCTIONS TO TENDERERS

A. General

1. Scope of Tender

- 1.1 This tendering document is for the delivery of Insurance services, as specified in Section V, Procuring Entity's Schedule of Requirements. The name of the Procuring Entity, name and identification and number of this tender are specified in the **TDS**.

2. Definitions:

- 2.1 Throughout this tendering document:
- a) The term "in writing" means communicated in written form (e.g., by mail, 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 esquires, "singular" means "plural" and vice versa; and
 - c) "Day" means calendar 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.
- 2.2 The successful Tenderer will be expected to commence providing the Insurance Services by Date provided **in the TDS**. The insurance duration for each item will be one year or the period specified in the **TDS**.

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 civils actions may be 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 this tender. To that end, the Procuring Entity shall indicate in the **TDS** 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, pre-qualification 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 ITT 4.7 or any combination of such entities in the form of a joint venture (JV) under an existing agree mentor with the intent to enter into such an agreement supported by a letter of intent. Only Insurance service providers registered by Insurance Regulatory Authority are eligible to tender and sign contracts. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in 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 Procuring Entity's Requirements (including Schedules of requirements, Performance Specifications, etc.) for the Insurance services that are the subject of this Tender; or
 - f or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity for the Contract implementation; or
 - g would be providing goods, works, or services resulting from or directly related to the insurance services specified in the **TDS** ITT 1.1 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 procurement process and execution of the Contract.
- 4.4 A firm that is a Tenderer shall not participate in more than one Tender, except for permitted alternative Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved.
- 4.5 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.9. 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 may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.

- 4.6 A Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.
- 4.7 Tenderers that are state-owned enterprises or institutions in Kenya may be eligible to compete and be awarded a Contract(s) if they can establish that they are registered as insurance businesses.
- 4.8 A tenderer under suspension from tendering as the result of the operation of a Tender-Securing Declaration or Proposal-Securing Declaration shall not be eligible to tender.
- 4.9 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.
- 4.10 The Insurance Act of Kenya (Revised 2017) requires that insurance companies that wish to offer insurance services in Kenya should be registered with the Insurance Regulatory Authority (IRA) of Kenya to allow them undertake insurance business in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before contract award and signature of contract. Details on application for registration with Insurance Regulatory Authority may be accessed from the website www.ira.go.ke.
- 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 Act. 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.ira.go.ke.
- 4.12 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a current tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

5. Qualification of the Tenderer

- 5.1 In the event that pre-qualification of Tenderers has been undertaken as stated in ITT 18.4, the provisions on qualifications of the Section III, Evaluation and Qualification Criteria shall not apply.

B. Contents of Tendering Document

6. Sections of Tendering Document

- 6.1 The tendering document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITT 9.

PART 1: Tendering Procedures

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

PART 2: Procuring Entity's Requirements

- v) Section V- Schedule of Requirements

PART 3: Contract

- vi) Section VI - General Conditions of Contract (GCC)
- vii) Section VII - Special Conditions of Contract (SCC)
- viii) Appendix to the Contract–Insurance Policy

- 6.2 The Invitation to Tender (ITT) or the notice to pre-qualify Tenderers, as the case may be, 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, the Minutes of the pre-Tender meeting (if any), or Addenda to the tendering document in accordance with ITT 9. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.
- 6.4 The Tenderer is expected to examine all instructions, forms, terms of reference, 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 Tender Document, Site Visit, Pre-Tender Meeting

- 7.1 A Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting if provided for in accordance with ITT 7.2. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender D documents in accordance with ITT 7.4, 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 Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT 8 and ITT 22.2.
- 7.2 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the site(s) and items of the required contracts and obtain all information that may be necessary for preparing a tender. The costs of visiting the Sites shall be at the Tenderer's own expense. The Procuring Entity shall specify in the **TDS** if a pre-arranged Site visit and or a pre-tender meeting will be held, when and where. The Tenderer's designated representative is invited to attend a pre-arranged site visit and a pre-tender meeting, as the case may be. The purpose of the site visit and the pre-tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.3 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the **TDS** before the meeting.
- 7.4 Minutes of a pre-arranged site visit and those of the pre-tender meeting, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents. Minutes shall not identify the source of the questions asked.
- 7.5 The Procuring Entity shall also promptly publish anonymized (no names) Minutes of the pre-arranged site visit and those of the pre-tender meeting at the web page identified in the **TDS**. Any modification to the Tender Documents that may become necessary as a result of the pre-arranged site visit and those of the pre-tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-

Tender meeting. Non-attendance at the pre-arranged site visit and the pre- tender meeting will not be a cause for disqualification of a Tenderer.

8. Clarification of Tendering Document

- 8.1 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 request for 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 ITT 6.3, including 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 ITT 9 and ITT 23.2.

9. Amendment of Tendering Document

- 9.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tendering document by issuing addenda.
- 9.2 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 web page in accordance with ITT 8.1.
- 9.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 23.2 below.

C. Preparation of Tenders

10. Cost of Tendering

- 10.1 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.

11. Language of Tender

- 11.1 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 maybe in another language provided they are accompanied by an accurate translation of the relevant passages in to the English language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

12. Documents Comprising the Tender

- 12.1 The Tender shall comprise the following:

- a **Form of Tender** prepared in accordance with ITT 13;
- b **Schedules:** priced Activity Schedule completed in accordance with ITT 13 and ITT 15;
- c **Tender Security or Tender-Securing Declaration** in accordance with ITT 20.1;
- d **Alternative Tender:** if permissible in accordance with ITT 14;
- e **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 21.3;

- f **Qualifications:** documentary evidence in accordance with ITT 18 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
- g **Tenderer's Eligibility:** documentary evidence in accordance with ITT 18 establishing the Tenderer's eligibility to Tender;
- h **Conformity:** documentary evidence in accordance with ITT 17, that the Services conform to the tendering document;
- i **Sample Insurance Policy** for each type of insurance required; and
- j Any other document required **in the TDS**.

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

13. Form of Tender and Schedule of Requirements

13.1 The Form of Tender and priced Schedule of Requirements 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 ITT 21.3. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize pages of all tender documents submitted.

14. Alternative Tenders

14.1 Unless otherwise indicated **in the TDS**, alternative Tenders shall not be considered. If alternatives are permitted, only the technical alternatives, if any, of the best Evaluated Tenderer shall be considered by the Procuring Entity.

15. Tender Prices and Discounts

15.1 The prices (or premiums) and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Schedule of Requirements shall conform to the requirements specified below.

15.2 The Contract shall be for the Insurance Services of the items described in the Schedule of Requirements submitted by the Tenderer.

15.3 The Tenderer shall quote any discounts in the Form of Tender in accordance with ITT 13.1.

15.4 All duties, taxes, and other levies payable by the Insurance Provider under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of Tenders, shall be included in the total Tender price submitted by the Tenderer.

15.5 If provided for in the **TDS**, prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Special Conditions of Contract and of the General Conditions of Contract.

16. Currencies of Tender and Payment

16.1 The currency of the Tender and the currency of payments shall be Kenya Shillings, unless specified otherwise in the **TDS**.

17. Documents Establishing Conformity of Services

17.1 To establish the conformity of the Insurance Services to the tendering document, the Tenderer shall furnish as part of its Tender the documentary evidence that Services provided conform to the Procurement Entity's requirements specified in Section VII, Schedule of Requirements.

- 17.2 Standards for provision of the Insurance Services are intended to be descriptive only and not restrictive. The Tenderer may offer other standards of quality 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 V, Schedule of Requirements.
- 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 Service provider or group of service providers qualifies for a margin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and / or contract management processes, or a possibility of collusion between tenderers, and there by 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 6.2 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 ITT 6.3. 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 tender 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 incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 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 or which was not attributable to the intentional act, negligence or recklessness of the tenderer.

18. Documents Establishing the Eligibility and Qualifications of the Tenderer

- 18.1 To establish Tenderer's eligibility in accordance with ITT 4, Tenderers shall complete the Form of Tender, and all Tendering Forms included in Section IV.
- 18.2 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 that the Tenderer meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.
- 18.3 In the event that pre-qualification of Tenderers has been undertaken as stated **in the TDS**, only Tenders from pre-qualified Tenderers shall be considered for award of Contract. These qualified Tenderers should submit with their Tenders any information updating their original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission.
- 18.4 If pre-qualification has not taken place before Tendering, the qualification criteria for the Tenderers are specified in Section III, Evaluation and Qualification Criteria.

19. Period of Validity of Tenders

- 19.1 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 date (as prescribed by the Procuring Entity in accordance with ITT 23.1). A tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 19.2 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 20, it shall also be extended for an appropriate responding 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, except as provided in ITT 19.3.

20. Tender Security

- 20.1 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**.
- 20.2 A Tender Securing Declaration shall use the form included in Section IV, Tendering Forms.
- 20.3 If a Tender Security is specified pursuant to ITT 20.1, from a reputable source, and an eligible country and shall be in any of the following forms at the Tenderer's option:
- i) cash;
 - ii) a bank guarantee;
 - iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority; or
 - iv) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya,
- 20.4 If a Tender Security is specified pursuant to ITT 20.1, any Tender not accompanied by a substantially responsive Tender Security shall be rejected by the Procuring Entity as non-responsive.
- 20.5 If a Tender Security is specified pursuant to ITT 20.1, 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 ITT 46. The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non responsive or a bidder declines to extend tender validity period.

20.6 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.

20.7 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 in the Form of Tender, or any extension thereto provided by the Tenderer; or
- b. if the successful Tenderer fails to:
 - i) sign the Contract in accordance with ITT 45; or
 - ii) Furnish a performance security in accordance with ITT 46.

20.8 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.

20.9 A tenderer shall not issue a tender security to guarantee itself.

21. Format and Signing of Tender

21.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 12, bound with the volume containing the Form of Tender, and clearly marked "Original." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **TDS**, and clearly marked as "Copies." In the event of discrepancy between them, the original shall prevail.

21.2 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.

21.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person or persons 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.

21.4 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

22. Sealing and Marking of Tenders

22.1 The Tenderer shall deliver the Tender in a single, sealed envelope. Within the single envelope the Tenderer shall place the following separate, sealed envelopes:

- a. in an envelope marked "ORIGINAL", all documents comprising the Tender, as described in ITT 12; and
- b. in an envelope marked "COPIES", all required copies of the Tender; and
- c. if alternative Tenders are permitted in accordance with ITT14, and if relevant:
 - i. in an envelope marked "ORIGINAL-ALTERNATIVE TENDER", the alternative Tender; and
 - ii. in the envelope marked "COPIES –ALTERNATIVE TENDER" all required copies of the alternative Tender.

22.2 The inner envelopes shall:

- a) Bear the name and address of the Tenderer.

- b) Be addressed to the Procuring Entity in accordance with ITT 23.1;
- c) Bear the specific identification of this Tendering process specified in accordance with **TDS 1.1**; and
- d) Bear a warning not to open before the time and date for Tender opening.

22.3 The outer-envelopes shall:

- a) Be addressed to the Procuring Entity in accordance with ITT 23.1;
- b) Bear the specific identification of this Tendering process specified in accordance with **TDS 1.1**; and
- c) Bear a warning not to open before the time and date for Tender opening.

22.4 If all envelopes are not sealed and marked as required, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that were misplaced or opened prematurely will not be accepted.

23. Deadline for Submission of Tenders

23.1 Tenders must be received by the Procuring Entity at the address and no later than the date and time specified **in the TDS**. 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**.

23.2 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the tendering document in accordance with ITT 9, 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.

24. Late Tenders

24.1 The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT 23. 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.

25. Withdrawal, Substitution and Modification of Tenders

25.1 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 ITT 21.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) Prepared and submitted in accordance with ITT 21 and ITT 22 (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 23.

25.2 Tenders requested to be withdrawn in accordance with ITT 25.1 shall be returned unopened to the Tenderers.

25.3 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.

26. Tender Opening

- 26.1 Except as in the cases specified in ITT 23 and ITT 25.2, 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 and anyone who choose to attend. Any specific electronic Tender opening procedures required if electronic tendering is permitted in accordance with ITT 23.1, shall be as specified **in the TDS**.
- 26.2 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.
- 26.3 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.
- 26.4 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.
- 26.5 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 or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.
- 26.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further. The Form of Tender and the priced Activity Schedule are to be initialed by representatives of the Procuring Entity attending Tender opening in the manner specified in the **TDS**.
- 26.7 The Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 24.1).
- 26.8 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; and
 - 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.
- 26.9 The Tenderers' representatives who a represent shall be requested to sign the record. The omission of a Tenderer's 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

27. Confidentiality

27.1 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 information on the Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 41.

27.2 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.

27.3 Notwithstanding ITT 27.2, 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.

28. Clarification of Tenders

28.1 To assist in the examination, evaluation, and comparison of Tenders, and qualification of the Tenderers, the Procuring Entity may, at the Procuring Entity's discretion, ask any Tenderer for clarification of its Tender including breakdowns of the prices in the Activity Schedule, and other information that the Procuring Entity may require. 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 32.

28.2 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.

29. Deviations, Reservations, and Omissions

29.1 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.

30. Determination of Responsiveness

30.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself, as defined in ITT 12.

30.2 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 Insurance 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's obligations under the Contract; or
- b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

30.3 The Procuring Entity shall examine the technical aspects of the Tender submitted in accordance with ITT 17 and ITT 18, in particular, to confirm that all requirements of Section VII,

Schedule of Requirements have been met without any material deviation or reservation, or omission.

31. Non-conformities, Errors and Omissions

31.1 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. Non-conformities, Errors and Omissions.

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

31.3 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 non-conformities or omissions in the Tender related to documentation requirements. Requesting information or documentation on such non-conformities 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.

32. Arithmetical Errors

32.1 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.

32.2 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 an error in calculation of unit price, quantity, sub-total 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.

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

33. Comparison of Tenders and Conversion to Single Currency

33.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 31.2 to determine the Tender that has the lowest evaluated cost. The comparison shall be on the basis of total cost prices for each offered insurance service.

33.2 For evaluation and comparison purposes, the currency(ies) of the Tender shall be converted in a single currency as specified **in the TDS**. The source of exchange rate and the date of such exchange rate shall also be specified in the **TDS**.

34. Margin of Preference and Reservations

34.1 A margin of preference on local insurance providers may be allowed only when the contract is open to international competitive tendering where foreign contractors are expected to participate in the tendering process and where the contract exceeds the value/threshold specified in the Regulations.

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

34.3 Contracts procured on basis of international competitive tendering shall not be subject to reservations exclusive to specific groups as provided in ITT 33.4.

34.4 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 maybe), and who are appropriately registered as such by a competent authority, 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. No tender shall be reserved to more than one group. If not so stated in the Invitation to Tender and in the Tender documents, the invitation to tender will be open to all interested tenderers.

35 Evaluation of Tenders

35.1 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 tendering document; and
- b) The lowest evaluated cost.

35.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the Evaluated Tender Price by adjusting the Tender price as follows:

- a) Prices offered by the Tenderer, corrected appropriately in accordance with ITT 32;
- b) Price adjustment due to discounts offered in accordance with ITT 15.4;
- c) converting the amount resulting from applying (a) and (b) above, if allowed, to a single currency in accordance with ITT 33.2;
- d) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria.

35.3 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 taken in to account in Tender evaluation.

35.4 Where the tender involves multiple items, the tenderer will be allowed to tender for one or more items. Each item will be evaluated in accordance with ITT 35.2. The methodology to determine the lowest evaluated tenderer or tenderers will be based on each item and not a combination of items.

36. Comparison of Tenders

36.1 The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 35.2 to determine the Tender that has the lowest evaluated cost.

37. Abnormally Low Tenders and Abnormally High Tenders **Abnormally Low Tenders**

37.1 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 as to the capability of the Tenderer to perform the Contract for the offered Tender price or that genuine competition between Tenderers is compromised.

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

- 37.3 After evaluation of the price analyses, 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.

Abnormally High Tenders

- 37.4 An abnormally high tender 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.
- 37.5 In case of an abnormally high 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, cope 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.
- 37.6 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.

38. Qualification of the Tenderer

- 38.1 The Procuring Entity shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender is eligible and meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 18. The determination shall not take in to consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors or any other firm(s) different from the Tenderer that submitted the Tender.
- 38.3 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's qualifications to perform satisfactorily.

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 Contract Award, without there by 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.

41. Notice of Intention to enter in to a Contract

41.1 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 was unsuccessful, unless the price information in(c) above already reveals the reason;
- d) the expiry date of the Stand still Period; and
- e) instructions on how to request a debriefing and/or submit a complaint during the stand still period;

42. Stand still Period

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

42.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter in to a Contract with the successful Tenderer.

43. Debriefing by the Procuring Entity

43.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 43, 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.

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

44. Negotiations

44.1 The negotiations shall be held at the place indicated in the **TDS** with the Tenderer's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Tenderer. The Procuring Entity will constitute a team to negotiate a contract and the terms of the Insurance Policy to be provided.

44.2 The negotiations shall start with discussions of the scope of the terms and conditions of the Policy, its conformity to the Procuring Entity's requirements, the conditions and circumstances under which the insured will be financially compensated, and the items that would need to be attended to before the contract is signed and an Insurance Policy issued. These discussions shall not substantially alter the original scope of the Procuring Entity's requirements. The items that would need to be attended to by the Procuring Entity before the contract is signed and an Insurance Policy issued should not be so extended as to render the scope of the required service and its price different from the Procuring Entity's requirements.

44.3 The Procuring Entity shall prepare minutes of negotiations that are signed by the Procuring Entity and the Tenderers' authorized representative.

45. Letter of Award

45.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, 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 21 days 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 the Letter of Award from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, in accordance with the General Conditions of Contract, subject to ITT 38.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.

47.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the **TDS** 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 Best Evaluated Tender.

47.3 Performance security shall not be required for contracts estimated to cost less than the amount specified in the Regulations.

48. Publication of Procurement Contract

48.1 Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of 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 Complaint and Administrative Review

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

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

SECTION II. TENDER DATA SHEET (TDS)

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

ITT Reference	Particulars of Appendix to Instructions to Tenders
A. General	
ITT 1.1	- The Tender reference number (ITT) is: ODPP/OT/001/2024-2025 - The Procuring Entity is: OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS - The name of the ITT is: PROVISION OF MEDICAL INSURANCE AND LAST EXPENSE COVER FOR THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP) STAFF
ITT 2.2	The Intended date commencing providing the Insurance Services is 1st October, 2024. The insurance duration will be for a period of two (2) years subject to annual performance review.
B. Contents of Tendering Document	
ITT 7.1 8.1	i) The Tenderer will submit any request for clarifications in writing at the Address procurement@odpp.go.ke cc: odppprocurement@gmail.com to reach the Procuring Entity not later than Friday 30th August, 2024. ii) The Procuring Entity shall publish its response at the website www.odpp.go.ke
C. Preparation of Tenders	
ITT 12.1 (j)	The Tenderer shall submit the following additional documents in its Tender: NOT APPLICABLE Other documents required are NOT APPLICABLE
ITT 14.1	Alternative Tenders SHALL NOT BE considered.
ITT 15.5	The prices quoted by the Tenderer shall be subject to adjustment as per the section 139 of the PPAD Ac .
ITT 16.1	The currency of the Tender and the currency of payments shall be Kenya Shillings (KSh).
ITT 19.1	The Tender validity period shall be ONE HUNDRED AND FIFTY (150) days.
ITT 20.1	A Tender Security of KShs.1,000,000 (One Million Kenya Shillings) shall be required. The Tender Security shall be in the form of a Guarantee from a bank or financial institution licensed by the Central Bank of Kenya or an insurance company licensed by the Insurance Regulatory Authority payable to the Office of the Director of Public Prosecutions (Self-guaranteed tender securities are not allowed). The amount and currency of the Tender Security shall be <u>Kenya Shillings (KShs.)</u>
ITT 21.1	In addition to the original of the Tender, the number of copies is: NOT REQUIRED
D. Submission and Opening of Tenders	
ITT 23.1	For Tender submission purposes only, the Procuring Entity's address is:

ITT Reference	Particulars of Appendix to Instructions to Tenders
	OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS Attention: DIRECTOR OF PUBLIC PROSECUTIONS Postal Address: P.O Box 30701-00100 Physical Address: ODPP HOUSE, UPPERHILL, RAGATI ROAD Telephone: 020 273 2090/ 0787 880580
ITT 23.1	The deadline for Tender submission is: Date: Tuesday 3rd September, 2024 Time: 11:00 a.m Tenderers shall not have the option of submitting their Tenders electronically. The electronic Tender submission procedures shall be: NOT APPLICABLE
ITT 26.1	The Tender opening shall take place at: Physical Address: ODPP HOUSE, UPPERHILL, RAGATI ROAD Date: Tuesday 3rd September, 2024 Time: 11:00 A.M.
ITT 26.1	The electronic Tender opening procedures shall be: NOT APPLICABLE
ITT 26.6	The Form of Tender and priced Activity Schedule shall be initialed by Tender Opening Committee representatives.
E. Evaluation and Comparison of Tenders	
ITT 33.2	The currency shall be Kenya Shillings (KSh) and the source of exchange rate shall be: The Central bank of Kenya (mean rate) as on the deadline date for Submission of the Tenders.
ITT 34.2	Margin of preference shall be not allowed.
F. Award of Contract	
ITT 44.1	The negotiations will be held at ODPP House.
ITT 49.1	The procedures for making a Procurement-related Complaint are available from the PPRA Website www.ppra.go.ke or email complaints@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 hand delivery or email to: For the attention: Director of Public Prosecutions Procuring Entity: Office of the Director of Public Prosecutions Email address: info@odpp.go.ke / procurement@odpp.go.ke In summary, a Procurement-related Complaint may challenge any of the following: (i) the terms of the Tender Documents; and (ii) the Procuring Entity's decision to award the contract.

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. General Provisions

- 1.1 Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:
- a) For business turn over or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
 - b) Value of single contract-Exchange rate prevailing on the date of the contract signature.
 - c) Exchange rates shall be taken from the publicly available source identified in the ITT. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.
- 1.2 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. The Procuring Entity should use **the Standard Tender Evaluation Report for Goods and Works** for evaluating Tenders.

1.3 Evaluation and contract award Criteria

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.

2. Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements of “*Part2–Procuring Entity's Insurance Requirements*”, including checking for tenders with unacceptable errors, abnormally low tenders, abnormally high tenders and tenders that are incomplete. The Standard Tender Evaluation Report for Goods and Works for evaluating Tenders provides clear guidelines on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered irresponsive and will not be considered further.

A. Preliminary/ Mandatory Evaluation Criteria

MR	Mandatory Requirement (MR)	Evidence Required
MR1	Must be currently licensed by the Insurance Regulatory Authority (IRA) to transact medical insurance business.	Evidence to be availed is the licence from IRA.
MR2	Submit copy of Certificate of Registration/Incorporation from the Business Registration Services/Registrar of Companies.	Evidence to be availed is the registration certificate.
MR3	Submit Current Valid and Authentic Tax Compliance Certificate from Kenya Revenue Authority (KRA).	Evidence to be availed is the tax compliance certificate from KRA.
MR4	Submit membership certificate for the year 2024 from the Association of Kenya Insurers (AKI).	Evidence to be availed is the certificate.

MR	Mandatory Requirement (MR)	Evidence Required
MR5	Must Submit a sample policy document for the medical cover highlighting all the benefits as per the schedule of requirements.	Evidence to be availed is the sample policy document.
MR6	Must submit valid and authentic trading licence from respective County Government.	Evidence to be availed is the valid authentic trade licence.
MR7	Must submit a copy of current certificate of Confirmation of Directors and Shareholding (CR 12) (Issued within the last 1 Month to Tender Opening Date)	Evidence to be availed is the valid authentic CR12 certificate.
MR8	Must Submit original valid and authentic Tender Security of KSh.1,000,000 (One Million Kenya Shillings) in the form of a Guarantee from a bank or financial institution licensed by the Central Bank of Kenya or an insurance company licensed by the Insurance Regulatory Authority payable to the Office of the Director of Public Prosecutions (Self-guaranteed tender securities are not allowed) valid for 150 days after date of tender opening.	Evidence to be availed is a valid authentic tender security.
MR9	Duly filled, signed and stamped Form of Tender in the format provided in the tender document.	Evidence to be availed is the duly filled form of tender.
MR10	Duly filled, signed and stamped Tenderer's eligibility-Confidential Business Questionnaire.	Evidence to be availed is the duly filled form.
MR11	Duly filled, signed and stamped Certificate of Independent Tender Determination.	Evidence to be availed is the duly filled form.
MR12	Must submit a duly filled, signed and stamped Self-Declaration Form that the Person/Tenderer is not Debarred in the Matter of the Public Procurement and Asset Disposal Act 2015 (SD1 FORM).	Evidence to be availed is the duly filled SD1 form.
MR13	Duly filled, signed and stamped Self Declaration that the Person/Tenderer will not engage in any corrupt or fraudulent practice. (SD2 FORM).	Evidence to be availed is the duly filled SD2 form.
MR14	Duly filled, signed and stamped Declaration and commitment to the Code of Ethics Form.	Evidence to be availed is the duly filled form.
MR15	Duly Filled, Signed and Stamped Tenderer Information Form.	Evidence to be availed is the duly filled form.

MR	Mandatory Requirement (MR)	Evidence Required
MR16	Duly filled, signed and stamped Price Schedule Form.	Evidence to be availed is the duly filled form.
MR17	Provide a list of all the exclusions under in-patient and out-patient. If the Scheme does not have any exclusions, please confirm the same in writing. If the list or the confirmation is missing, then the bidder will be considered non-responsive to this requirement and therefore disqualified.	Evidence list/Confirmation
MR18	Must have written gross direct annual premium on medical of at least Kshs.1billion for the year 2022.	Evidence reports to be confirmed at IRA website/ bidder's financial statement.
MR19	Must have paid up capital of at least Kshs.700Million for the year 2022.	Evidence reports to be confirmed at IRA website/ bidder's financial statement. Attach CR12.
MR20	Must have operated for 10 years and above.	Certificate of Incorporation (COI).
MR21	Must paginate the Tender document sequentially (1, 2, 3.....)	Sequential pagination.
MR22	Tenderers must fill each item by indicating as appropriate in column A or B (complied or Not Complied to each item of the table below (Nos 1-10).	Evidence indicating compliance to all items in the table BELOW.

Note: Tenders that do not pass the Preliminary/Mandatory Evaluation will be considered non-responsive and will not be considered further.

No.	Requirement	A	B
		Complied	Not Complied
1.	Medical Cover must be for both In-patient and Out-patient as one package under one Insurer and no co-sharing.		
2.	Eligibility is as follows: - Principal member who is an employee of ODPP aged 18 – 65 years. - One (1) spouse declared by the principal member. - Up to four (4) declared children, (biological or legally adopted) from birth		

No.	Requirement	A	B
		Complied	Not Complied
	to 21 years of age or who have not attained the age of 25 years if fully dependent on the Principal Member and enrolled in full time post-secondary education, or full-time training. The age limit provided above shall not apply to children with disability wholly dependent on the principal member and registered with the National Council for Persons with Disability. • Additional dependant children will be covered at an additional premium borne by the principal member.		
3.	Conditions to be covered must include Chronic, Pre-term, Congenital and Neo-natal, Pre-existing, HIV/AIDS, Ambulance and air evacuation, Maternity, Dental and Optical in both In-patient and Out-patient and mental health and psychiatric treatment, pandemics including Covid-19.		
4.	Must provide Biometric Identification Systems at no additional premium.		
5.	Allow direct access to the providers not through owned clinics.		
6.	Cancellation notice will be 60 days.		
7.	No waiting period for addition of new principal members and declared dependants.		
8.	No exclusions for pre-existing conditions.		
9.	Annual wellness check-up.		
10.	Allow the utilization of inpatient limits in case the outpatient limits are depleted.		

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

B. Technical Evaluation Criteria

NO.	CRITERIA	METHOD OF EVALUATION	MAXIMUM POINTS
1.	Firm's past Experience	a) Provide five (5) current assignments of providing medical insurance cover services to Public Sector organizations whose medical insurance business premiums are Kshs.100 million and above for each client. (2Mks per client, maximum 10 Marks)	25
		b) Provide proof from each of the above-named clients as having a total principal membership of at least 500 and total scheme population of at least 2,000 members. (1Mks per client, maximum 5 Marks)	
		c) As proof of each of the above five (5) assignments done for the public sector organizations, provide corresponding: (i) Copies of award letters. (1Mk per client, Maximum 5 Marks) (ii) Contracts/purchase orders (1Mk per client, Maximum 5 Marks)	
2.	Audited Accounts	Provide Copy of Audited Financial statements/Accounts for the last three financial years (2021, 2022 and 2023). The accounts must demonstrate a paid-up capital of 700 Million and be certified by an Auditor. (10 Marks) (score zero for paid up capital less than 700 Million).	10
3.	Experience in handling Medical Insurance	Must provide evidence of the following: (2021, 2022 and 2023)	20
		a) Average Medical Insurance Premiums underwritten for the last Three (3) Years of above Kes.1.7 Billion as per IRA reporting. (20 Marks).	
		b) Average Medical Insurance Premiums underwritten for the last Three (3)	

NO.	CRITERIA	METHOD OF EVALUATION	MAXIMUM POINTS
		Years of between 1.1 - 1.6 billion as per IRA reporting. (10 Marks).	
		c) Average Medical Insurance Premiums underwritten for the last Three (3) Years of below 1 Billion as per IRA reporting. (5 Marks).	
4.	Professional Indemnity & Reinsurance Arrangement	Provide Professional Indemnity Insurance Cover of a Minimum of Kshs.100 million. Provide certified copy of a reinsurance approval from IRA for the year 2024	5
5.	Professional qualifications and experience of staff to deal with the Medical Scheme (Minimum 3 Staff).	Must attach copies of CV and certificates of each member listed as proof of qualifications to score marks.	
		a) Name of the Team leader with a relevant Degree and attach the following: Degree Certificate and Professional qualification (ACII/CII/AIK/IIK) with 15 years' Insurance experience and Valid Certificate of Good Conduct and valid AIK Membership Insurance Institute of Kenya (Max 10 Marks).	10
		b) Two Management Staff with a relevant Degree and Professional Qualifications (ACII/CII/AIK/IIK/ equivalent) with over Ten Years Insurance experience and valid AIK Membership (Insurance Institute of Kenya (Max 5 Marks, 2.5Mks for each Mgt. staff).	5
		c) At least Five (5) team members (technical members) with a relevant Degree and Professional Qualifications (ACII/CII/AIK/IIK/ equivalent) with over five Years Insurance experience and valid AIK Membership (Insurance Institute of Kenya (Max 5 Marks, 1Mk for each team member).	5

NO.	CRITERIA		METHOD OF EVALUATION	MAXIMUM POINTS
6.	Settlement of claims	Provide current recommendation letters (2024) from at least ten (10) reputable hospitals with ongoing service provider Contracts (Max 5 Marks, 0.5Mk for each).		5
7.	Hospital Network	Provide a list of reputable networks of Hospitals, Clinics, Pharmacies and laboratories country wide. 1 – 20 -1mk 21 – 40 -2mks		2
8.	Benefits and exclusions	Any enhanced benefits beyond the Minimum in the TORs. (Max 3 Marks).		3
9.	Business Portfolio	Submit evidence of handling medical Claims as follows;		10
		a)	Average medical claims paid of KShs.1Billion and above as reported to IRA for the last three years (2021, 2022, 2023) (10 Marks).	
		b)	Average medical claims paid of between KShs.0.5B - KShs.1Billion as reported to IRA for the last three years (2021, 2022, 2023) (5 Marks).	
		c)	Average medical claims paid below KShs.0.5Billion as reported to IRA for the last three years (2021, 2022, 2023) (2 Marks).	
TOTAL				100 Marks

NOTE: Evaluation of tenders will be conducted based on the tenderers' response to the mandatory requirements and their compliance to the evaluation criteria. Only responsive Tenders scoring 80% and above on technical evaluation will be subjected to financial evaluation based on their price schedule.

C. FINANCIAL EVALUATION

Financial Evaluation will be undertaken for tenderers who scores are responsive in the Mandatory/Preliminary Evaluation stage and scores 80% and above in the Technical Evaluation stage.

It includes.

- Checking of arithmetic errors - A bidder whose bid will have arithmetical errors shall be quantified and treated as stipulated in the Public Procurement and Asset Disposal Regulations 2020 section 74(2).

- b. Price schedule: Must be fully filled, signed and stamped as indicated in the instructions to tenderers.
- c. Form of tender: Must be correctly filled, signed and stamped with total contract sum both in figures and word by the Tenderer.
- d. Financial Comparison.
- e. Ranking of Bids.
- f. Lowest evaluated price to be Recommended.

i) Due diligence/ Post-qualification

ODPP may conduct due diligence on the lowest evaluated bidder prior to the Award as per the Public Procurement and Assets Disposal Act, 2015. Due Diligence for all documents provided by the insurer shall be carried out before financial evaluation.

ODPP shall verify and determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated bid is responsive and qualified to perform the contract satisfactorily.

ii) Negotiation

The Procuring Entity may conduct negotiations with the invited firm as part of the evaluation.

iii) Award Criteria

Kenya Law Reform Commission will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

To qualify for contract awards, the tenderer shall have the following: -

- a) Necessary qualifications, capability experience, services, equipment and facilities to provide the Medical Insurance Cover.
- b) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- c) Shall not be debarred from participating in public procurement.

iii) Binding contract

ODPP understands that this tender, together with your written acceptance thereof included in your Form of acceptance shall constitute a binding contract between us until the formal contract is prepared and executed.

iv) Performance evaluation

If a tender is accepted, ODPP shall be conducting quarterly performance evaluation to determine compliance with the terms of reference of the medical scheme including the contract. If the evaluation determines that the performance of the tender is unsatisfactory, ODPP reserves the right to request for immediate remedy or terminate the contract and recommend for debarment.

3. Tender Evaluation (ITT 35)

Price evaluation: in addition to the criteria listed in ITT 35.2 (a)–(c) the following criteria shall apply:

Other Criteria; if permitted under ITT 35.2 (d):

4. Multiple Contracts

Multiple contracts will be not permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of items and the lowest evaluated tenderer identified for each item.

5. Alternative Tenders (ITT 14.1)

An alternative if permitted under ITT 14.1, will be evaluated as follows:

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2-Procuring Entity's requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

6. MARGIN OF PREFERENCE

Apply Margin of Preference, if so allowed to all evaluated and accepted tenders as follows.

- 6.1 If the **TDS** so specifies, the Procuring Entity will grant a margin of preference of fifteen percent (15%) to be loaded on evaluated prices of the foreign tenderers, where the percentage of shareholding of Kenyan citizens is less than fifty-one percent (51%).
- 6.2 Contractors applying for such preference 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 particular contractor or group of contractors qualifies for a margin of preference.
- 6.3 After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into the following groups:
 - i) *Group A:* tenders offered by Kenyan insurers and other Tenderers where Kenyan citizens hold shares of over fifty one percent (51%).
 - ii) *Group B:* tenders offered by foreign insurers and other Tenderers where Kenyan citizens hold shares of less than fifty one percent (51%).
- 6.4 All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, a tender from Group A is the lowest, it shall be selected for the award. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 5.1(c) of the respective tender price, including unconditional discounts, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group B and the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group B based on the first evaluation price shall be selected.

7. Post Qualification Criteria (ITT 38) Post qualification and Contract award (ITT39), more specifically,

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification 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 services cash flow of Kenya Shillings_____.
 - ii) Minimum average annual turnover of Kenya Shillings *[insert amount]*, equivalent calculated as total certified payments received for contracts in progress and/or completed within the last _____ *[insert of year] years.*
 - iii) 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 insurer, or joint vent u remember or sub-contractor each of minimum value Kenya shillings _____ equivalent.
 - iv) 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 _____ *(specify 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. 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 _____ *(Specify years)*. All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing 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.

SECTION IV - TENDERING FORMS

1. FORM OF TENDER

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS

- i) *All italicized text is to help the Tenderer in preparing this form.*
- ii) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.*

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

Tender Name and Identification :.....
[insert identification]

Alternative No.:[insert identification No. if this is a Tender for an alternative]

To:
[Insert complete name of Procuring Entity]

- a) **No reservations:** We have examined and have no reservations to the tendering document, including Addenda issued in accordance with ITT 9;
- b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest in accordance with ITT 4;
- c) **Tender-Securing Declaration:** We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing Declaration or Proposal-Securing Declaration in Kenya in accordance with ITT 21;
- d) **Conformity:** We offer to provide the Insurance Services in conformity with the tendering document of the following:
[insert the list of items tendered for and a brief description of the Insurance Services];

No.	Description of item to be insured	Value of item to be insured	Insurance period	Insurance Premium per annum (Tender Price)	Price discount (if any)	Total
1.	Provision of Medical Insurance and Last Expense Cover for the Office of the Director of Public Prosecutions (ODPP) Staff Year 1	As per the schedule of requirements	One (1) Year			
2.	Provision of Medical Insurance and Last	As per the schedule of	One (1) Year			

Expense Cover for the Office of the Director of Public Prosecutions (ODPP) Staff Year 2	requirements				
TOTAL (KShs. Inc. of all levies)					

- e) **Discounts:** The discounts offered and the methodology for their application are:
- The discounts offered are:*[Specify in detail each discount offered.]*
 - 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];*
- f) **Tender Validity Period:** Our Tender shall be valid for the period specified in TDS 19.1(as amended if applicable) from the date fixed for the Tender submission deadline (specified in TDS 23.1(as amended if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- g) **Performance Security:** If our Tender is accepted, we commit to obtain a Performance Security in accordance with the tendering document;
- h) **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 member or as a subcontractor, and meet the requirements of ITT 4.3, other than alternative Tenders submitted in accordance with ITT 14;
- i) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or insurance 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's official regulations or pursuant to a decision of the United Nations Security Council;
- j) **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 ITT 4.6];*
- k) **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, including Insurance Brokers, its full address, the reason 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.”)

- l) *[Delete if not appropriate, or amend to suit]* We confirm that we understand the provisions relating to Standstill Period as described in this tendering document and the Procurement Regulations.
- m) **Binding Contract:** We understand that this Tender, together with your written acceptance

thereof included in your Form of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

- n) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Best Evaluated Tender or any other Tender that you may receive;
- o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.
- p) **Collusive practices:** We here by 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; and
- q) **Code of Ethical Conduct:** We under take to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from www.ppra.go.ke during the procurement process and the execution of any resulting contract.
- r) **Beneficial Ownership Information:** We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.
- s) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:
 - i) Tenderer's Eligibility; Confidential Business Questionnaire—to establish we are not in any conflict to interest.
 - ii) Certificate of Independent Tender Determination—to declare that we completed the tender without colluding with other tenderers.
 - iii) Self-Declaration of the Tenderer—to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - iv) 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 “Appendix 1-Fraud and Corruption” attached to the Form of Tender.

Name of the tenderer:

**[insert complete name of person signing the Tender]*

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]*

A. 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 (<i>postal and physical addresses, email, and telephone number</i>) 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 (<i>postal and physical addresses, email, and telephone number</i>) 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			

ii) **Conflict of interest disclosure**

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties that puts it in a position to influence the tender of another		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing non-consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract?		

f) Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name_____

Title or Designation_____

(Signature)

(Date)

B. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

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) Has been requested to submit a Tender in response to this request for tenders;
 - 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 _____

Signature _____

[Name, title, date and signature of authorized agent of Tenderer]

C. SELF-DECLARATION FORMS

FORM SD1

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

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

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

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

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

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

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

.....

(Title)

.....

(Signature)

.....

(Date)

Bidder's Official Stamp

D. 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.....

E. APPENDIX 1- 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 1.1 above.
- 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 below highlight Kenya's policy of no tolerance for such practices and behavior:
- i) 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;
 - ii) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
 - iii) 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;
 - iv) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
 - v) 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 tenderer to whom was awarded contract, or a member of the group of tenderers of whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
 - vi) 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;
 - vii) 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 awarding 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:
 - 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
 - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority(ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring(i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub- consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

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

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 thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

TENDERER INFORMATION FORM

[The tenderer 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]*

1. Tenderer's Name: <i>[insert Tenderer's legal name]</i>
2. Tenderer's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
3. Tenderer's year of registration: <i>[insert Tenderer's year of registration]</i>
4. Tenderer's Address in country of registration: <i>[insert Tenderer's legal address in country of registration]</i>
5. Tenderer's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address..... <i>[insert Authorized Representative's Address]</i> Telephone:..... <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address:..... <i>[insert Authorized Representative's email address]</i>
6. Attached are copies of original documents of <u>[check the box(es) of the attached original documents]</u> ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 4.4. ☐ A current tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority, if tender is a Kenyan tenderer, in accordance with ITT 4.15. ☐ In case of state-owned enterprise or institution, in accordance with ITT4.6 documents establishing: i) Legal and financial autonomy ii) Operation under commercial law iii) Establishing that the Tenderer is not under the supervision of the agency of the Procuring Entity 2. Included are the organizational chart and a list of Board of Directors.

Name _____

Title _____

Date _____

Signature _____

[Name, Title, date and signature of authorized agent of Tenderer]

QUALIFICATION INFORMATION

1.1 Constitution or legal status of Tenderer:[attach copy]

Place of registration: [insert]

Principal place of business: [insert]

Power of attorney of signatory of Tender: [attach]

1.2 Total annual volume of services performed in five years, in the internationally traded currency specified **in the TDS**:[insert]

1.3 Services performed as prime Insurance Provider on the provision of Services of a similar nature and volume over the last five years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of Services underway or committed, including expected completion date.

Item Insured and name of country	Name of Procuring Entity and contact person	Type of Services provided and year of completion	Value of contract
(a)			
(b)			

1.4 Financial reports for the last five years: balance sheets, profit and loss statements, auditors' reports, etc. List and attach copies.

1.5 Name, address, and telephone, and facsimile numbers of banks that may provide references if contacted by the Procuring Entity.

1.6 Information regarding any litigation, current or within the last five years, in which the Tenderer is or has been involved.

Other party(ies) Cause of dispute Details of litigation award Amount involved

a) _____

b) _____

1.7 Statement of compliance with the requirements of ITT 4.2.

1.8 Any additional information required _____

SCHEDULE OF PRICES FORMS

[The Procuring Entity shall fill in these Forms to indicate the List of Insurance Services required by the Procuring Entity [Columns 1-4 and the Tenderer shall complete columns 5-7 as his /her Tender.]

1	2	3		4	5	6	7
No.	Description of item to be insured	Value of item to be insured	Major contingencies requiring insurance	Insurance period	Insurance Premium per specified period (Tender Price)	Price discount (if any)	Total Tender Price for Insurance Service (Col. 5-6)
1.	In-patient cover	As per the schedule of requirement	Not applicable	One(1) year			
2.	Out-patient cover	As per the schedule of requirement	Not applicable	One(1) year			
3.	Maternity services	As per the schedule of requirement	Not applicable	One(1) year			
4.	Dental cover	As per the schedule of requirement	Not applicable	One(1) year			
5.	Optical cover	As per the schedule of requirement	Not applicable	One(1) year			
6.	Last expense	As per the schedule of requirement	Not applicable	One(1) year			
7.	Excess of loss	As per the schedule of requirement	Not applicable	One(1) year			
TOTAL FOR ONE YEAR (KShs. Inc. of all levies)							

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

Signature of Tenderer..... *[signature of person signing the Tender]*

Date..... *[insert date]*

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 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)

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 Tenderers are listed below.

1	2	3	4
No. of item to be insured	Description of Item	Name of Tenderer	Tender Price
No 1			
No 2			
No 3			

2. 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 read out.]

1	2	3	4
No. of item to be insured	Description of Item	Name of Tenderer	Tender Price
No 1			
No 2			
No 3			

3. 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 request for debriefing as follows:

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

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

Agency:*[insert name of Procuring Entity]*

Email address:..... *[insert email address]*

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

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

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

4. How to make a complaint

Period: Procurement-related Complaint challenging the decision to award shall be submitted by *[insert date and 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]*

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.

In summary, there are four essential requirements:

1. You must be an 'interested party'. In this case, that means a Tenderer who submitted 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 within the period stated above.
4. You must include, in your complaint, all of the information required to support the complaint.
5. The application must be accompanied by the fees set out in the Procurement Regulations, which shall not be refundable (information available from the Public Procurement Authority at complaints@ppra.go.ke or info@ppra.go.ke).

5. Standstill Period

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

The Standstill 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 ofdated the.....day of20.....in the matter of Tender No.....of20..... 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 of20.....

SIGNED

Board Secretary

3. LETTER OF AWARD

[Form head paper of the Procuring Entity]

.....*[date]*

To:.....*[name and address of the Insurance Provider]*

This is to notify you that your Tender dated.....*[date]* for execution of the.....*[name of the Contract and identification number, as given in the Special Conditions of Contract]* for the Contract Price of the equivalent of.....*[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers is here by accepted by us (Procuring Entity).

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section X, Contract Forms, of the tender document.

Please return the attached Contract duly signed

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract

4. FORM OF CONTRACT

[Form head paper of the Procuring Entity]

LUMP SUM REMUNERATION

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

[Note: *In the text below text in brackets is optional; all notes should be deleted in final text. If the Insurance Provider consist of more than one entity, the above should be partially amended to read as follows: “... (here in after called the “Procuring Entity”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Procuring Entity for all the Insurance Provider's obligations under this Contract, namely, [name of Insurance Provider] and [name of Insurance Provider] (here in after called the “Insurance Provider”).]*

WHEREAS

- a) the Procuring Entity has requested the Insurance Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract (here in after called the “Services”);
- b) the Insurance Provider, having represented to the Procuring Entity that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of.....;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Agreement, and the priority of the documents shall be as follows:
 - a) The Form of Acceptance;
 - b) The Insurance Provider's Tender
 - c) The General Conditions of Contract;
 - d) The Special Conditions of Contract;
 - e) The Priced Schedule of Requirements; and
 - f) The following Appendices: [Appendix: Negotiated and Signed Insurance Policy(ies)]
2. The mutual rights and obligations of the Procuring Entity and the Insurance Provider shall be as set forth in the Contract, in particular:
 - a) The Insurance Provider shall carry out the Services in accordance with the provisions of the Contract; and
 - b) The Procuring Entity shall make payments to the Insurance Provider in accordance with the provisions of the Contract.

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

For and on behalf of _____ *[name of Procuring Entity]*

_____ *[Authorized Representative]*

For and on behalf of _____ *[name of Insurance Provider]*

_____ *[Authorized Representative]*

[Note :*If the Insurance Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the insurance Provider

.....*[name of member]*

.....*[Authorized Representative]*

..... *[name of member]*

.....*[Authorized Representative]*

FORM OF TENDER SECURITY (Option 1-Demand Bank Guarantee)

Beneficiary: _____

Request for Tenders No: _____

Date: _____

TENDER GUARANTEE No.: _____

Guarantor: _____

1. We have been informed that _____ *[hereinafter called "the Applicant"]* has submitted or will submit to the Beneficiary its Tender (hereinafter 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. Where *[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.
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; (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. The 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.

FORM OF TENDER-SECURING DECLARATION **NOT APPLICABLE**

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

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

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

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

I/We, the undersigned, declare that:

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

Signed:

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

Name:

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

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

Seal or stamp

PART II – SCHEDULE OF INSURANCE REQUIREMENTS

SECTION V – SCHEDULE OF REQUIREMENTS

SCHEDULE OF REQUIREMENTS

1. BACKGROUND INFORMATION

The Office of the Director of Public Prosecutions (ODPP) is the National Prosecuting Authority established by the Constitution of Kenya (2010) to institute and undertake criminal proceedings against any person before any court other than a court martial in respect of any offence alleged to have been committed.

The ODPP invites eligible and qualified tenderers to submit their tenders for Provision of Medical Insurance and Last Expense Cover for the Office of the Director of Public Prosecutions (ODPP) Staff. The contract will be for a period of two years subject to annual performance review.

2. TERMS OF REFERENCE

- i. Structuring and obtaining optimum medical insurance policy cover from the Insurance Service Provider in accordance with the tender submitted;
- ii. Provide prompt and satisfactory service on the general management of the Medical Scheme policy, correspondence and claim review meetings;
- iii. Prepare the Policy Document and any Endorsements there-in and forward to **ODPP**;
- iv. If the entire policy document is found to be satisfactory, such document will be deposited with the **ODPP** not later than fifteen (15) days of inception of cover;
- v. Arrange quarterly meetings to review performance of the policy by 15th of the following quarter;
- vi. Provide appropriate Medical Scheme improvement recommendations;
- vii. Such other services as may be related or ancillary to the due performance of the above work.

3. SCOPE OF MEDICAL COVER

a) Summary of Cover

Group Medical and Last Expense Cover for the Office of the Director of Public Prosecutions Staff and their Dependants.

b) Class of Insurance

Cover for in-patient, out-patient medical expenses, dental, optical and maternity including provision of last expense for the principal members and their declared dependents who pass on during the contract period. The size of Family is a maximum

of Principal Member, one declared Spouse and four (4) Children aged 0 - 25 years. Children with disabilities will not have age limit.

c) Effective Date

October 1st, 2024 to September 30th, 2026 *(Renewable annually upon performance review).*

d) Insured Persons

1,467 staff members and their dependents.

e) Area of Geographical Coverage

The ODPP has a presence in all the 47 counties and 131 court stations across the country, with its headquarters in Nairobi, Kenya. Consequently, the staff (Principal Members) and their dependents are situated all over Kenya. ODPP Staff frequently travel out of the country on official duties.

f) Objective of the Cover

The objective of the cover is to provide a comprehensive in-patient and out-patient medical and last expense cover for the ODPP Members of staff and their dependents.

g) Duration of Contract

The period of cover is two years subject to annual performance review. This Insurance cover will commence from 1st October, 2024 to 30th September, 2026.

4. DETAILS OF MEDICAL SCHEME COVER LIMITS

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)						
CLASS OF INSURANCE			Cover for in-patient, out-patient medical expenses, including provision of last expenses for the Members of staff and their dependents who pass on during the contract period.			
INSURED PERSONS			1,467 members of staff and their dependents (Table detailing the same provided)			
COVER BENEFITS SUMMARY			As detailed below			
POPULATION			For staff members - maximum of one declared spouse and four (4) children aged 0 to 25 years			
PERIOD OF INSURANCE			Two (2) Years Renewable upon annual performance review.			
EFFECTIVE DATE			October 01, 2024 – September 30, 2026			
INPATIENT BENEFITS						
CURRENCY IN KENYA SHILLINGS						
Item	Category A (D-K)	Category B (L – M)	Category C (N – P)	Category D (Q – S)	Category E (T)	Category F (DPP)
Overall Limit	2,500,000	2,750,000	3,000,000	3,250,000	5,100,000	10,150,000
Cover Type	Per Family shared	Per Family shared	Per Family shared	Per Family shared	Per Family shared	Per Family shared
Inpatient Bed limit (NHIF rebate is applicable)	Standard Private Room up to KSH.18,000	Standard Private Room up to KSH. 18,000	Standard Private Room up to KSH. 18,000	Ensuite Room up to KSH. 26,500	Ensuite Room up to KSH. 26,500	Ensuite Room up to KSH. 40,000

Pre-existing, Chronic, HIV & Aids & related Ailments	Full Inpatient Limit	Full Inpatient Limit	Full Inpatient Limit	Full Inpatient Limit	Full Inpatient Limit	Full Inpatient Limit
Psychiatric and psychological illnesses including drugs & substances abuse rehabilitation (referral by HR)	Full inpatient limit	Full inpatient limit	Full inpatient limit	Full inpatient limit	Full inpatient limit	Full inpatient limit
Pre - term babies, Congenital conditions and Ailments	within the full inpatient Limit	within the full inpatient Limit	within the full inpatient Limit	within the full inpatient Limit	within the full inpatient Limit	within the full inpatient Limit
Post Hospitalization visits/review	Ksh.50,000 subject to four weeks after discharge	Ksh.50,000 subject to four weeks after discharge	Ksh.50,000 subject to four weeks after discharge	Ksh.50,000 subject to four weeks after discharge	Ksh.50,000 subject to four weeks after discharge	Ksh.50,000 subject to four weeks after discharge
Inpatient Dental ailments	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000
Inpatient Optical ailments (<i>Eye Laser Surgery inclusive</i>)	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000	Ksh.500,000
Inpatient Dental Accidents	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit

COVID and COVID complications and testing	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit
Infertility treatment	Up to Kshs. 1,000,000 inpatient limit	Up to Kshs. 1,000,000 inpatient limits	Up to Kshs. 1,000,000 inpatient limit	Up to Kshs. 1,000,000 inpatient limits	Up to Kshs. 1,000,000 inpatient limit	Up to Kshs. 1,000,000 inpatient limits
Lodger fees – Age Limit	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below	Covers for accommodation and meals for a guardian accompanying a dependent who is 12 years and below
OUTPATIENT BENEFITS (STAND ALONE)						
Item	Category A (D-K)	Category B (L – M)	Category C (N – P)	Category D (Q – S)	Category E (T)	Category F (DPP)
Overall Limit	300,000	350,000	400,000	450,000	500,000	500,000
Cover Type	Per Family shared	Per Family shared	Per Family Member	Per Family shared	Per Family shared	Per Family shared
Pre-Existing, Chronic & HIV Conditions	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit

KEPI and baby friendly vaccines from birth to five years	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
Congenital conditions and Ailments	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
COVID and COVID complications, testing medications including supplements	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
Pre-& post-natal care	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
Counselling	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
Annual Medical Check-up	Covered Up to Ksh 30,000	Covered Up to Ksh 30,000	Covered Up to Ksh 30,000	Covered Up to Ksh 30,000	Covered Up to Ksh 30,000	Covered Up to Ksh 30,000
Occupational and speech therapy including development	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit	Up to full outpatient limit
Travel Vaccines (For Staff	Up to Kshs. 30,000	Up to Kshs. 30,000	Up to Kshs. 30,000	Up to Kshs. 30,000	Up to Kshs. 30,000	Up to Kshs. 30,000

travelling for Official Duty)						
MATERNITY BENEFITS (STAND ALONE) Including Normal and C-Section						
Item	Category A (D-K)	Category B (L – M)	Category C (N – P)	Category D (Q – S)	Category E (T)	Category F (DPP)
Benefit Limit	400,000	400,000	400,000	400,000	500,000	500,000
DENTAL BENEFITS (STAND ALONE)						
Annual dental Benefit Limit	60,000	60,000	60,000	60,000	60,000	75,000
OPTICAL BENEFITS (STAND ALONE)						
Annual Optical Benefit Limit	60,000	60,000	60,000	60,000	60,000	75,000
Lenses (Contact lenses and Plano must be covered)	Up to full optical limit	Up to full optical limit	Up to full optical limit	Up to full optical limit	Up to full optical limit	Up to full optical limit
Frames Capping	Ksh.20,000	Ksh.20,000	Ksh.20,000	Ksh.20,000	Ksh.20,000	Ksh.20,000
Frames Limitation	Frames (limited to one pair every 1 Year unless Medically Necessary)	Frames (limited to one pair every 1 Year unless Medically Necessary)	Frames (limited to one pair every 1 Year unless Medically Necessary)	Frames (limited to one pair every 1 Year unless Medically Necessary)	Frames (limited to one pair every 1 Year unless Medically Necessary)	Frames (limited to one pair every 1 Year unless Medically Necessary)

SPECIAL TERMS						
Mode of Identification	Virtual Access	Virtual Access	Virtual Access	Virtual Access	Virtual Access	Virtual Access
Smart Access and Access Fee Cost	At the bidders' cost	At the bidders' cost	At the bidders' cost	At the bidders' cost	At the bidders' cost	At the bidders' cost
Employee age limit	18 years to 65 years.	18 years to 65 years.	18 years to 65 years.	18 years to 65 years.	18 years to 65 years.	18 years to 65 years.
Age eligibility for dependent children	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit	0 (provided term baby of 36 weeks) to 25 years of age. Registered children with disability will have no age limit
Overseas Referral	Covered on credit basis in India Only cover to include air tickets	Covered on credit basis in India Only cover to include air tickets	Covered on credit basis in India Only cover to include air tickets	Covered on credit basis in India Only cover to include air tickets	Covered on credit basis in India Only cover to include air tickets	Covered on credit basis in India Only cover to include air tickets
Terrorism, Political War and Violence	Up to full in/outpatient limit	Up to full in/outpatient limit	Up to full in/outpatient limit	Up to full in/outpatient limit	Up to full in/outpatient limit	Up to full in/outpatient limit
Evacuation and ambulance rescue (Air and	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit	Up to full inpatient limit

road) in Kenya only						
Medical external appliances (including prescribed clutches, corsets) for inpatient and outpatient	Up to 50,000 within inpatient and outpatient	Up to 50,000 within inpatient and outpatient	Up to 50,000 within inpatient and outpatient	Up to 50,000 within inpatient and outpatient	Up to 50,000 within inpatient and outpatient	Up to 50,000 within inpatient and outpatient
Soaps and creams for skin conditions	Covered on prescription up to inpatient/ outpatient limit	Covered on prescription up to inpatient/ outpatient limit	Covered on prescription up to inpatient/ outpatient limit	Covered on prescription up to inpatient/ outpatient limit	Covered on prescription up to inpatient/ outpatient limit	Covered on prescription up to inpatient/ outpatient limit
Home based care	500,000 within Inpatient Benefit	500,000 within Inpatient Benefit	500,000 within Inpatient Benefit	500,000 within Inpatient Benefit	500,000 within Inpatient Benefit	500,000 within Inpatient Benefit
Supplements (<i>By prescription</i>)	Covered within outpatient limit	Covered within outpatient limit	Covered within outpatient limit	Covered within outpatient limit	Covered within outpatient limit	Covered within outpatient limit
Last Expense Benefit - Staff	300,000	300,000	300,000	300,000	300,000	300,000
Last Expense Benefit - Spouse	200,000	200,000	200,000	200,000	200,000	200,000
Last Expense Benefit - Child	100,000	100,000	100,000	100,000	100,000	100,000

NOTE: Value additions will be evaluated and considered separately

Maternity cover for child delivery and pregnancy related complications, applicable to only female principal members or female spouses (Not to all members of the scheme).

SCHEME POPULATION

Categories	Members	Dependents	Total Population	In-Patient Limit (Per Family)	Out-Patient (Per Family)	Maternity (Per Family)	Dental (Per Family)	Optical Limit (Per Family)
Category A (D-K)	774	1,103	1,877	2,500,000	300,000	400,000	60,000	60,000
Category B (L – M)	432	786	1,218	2,750,000	350,000	400,000	60,000	60,000
Category C (N – P)	173	372	545	3,000,000	400,000	400,000	60,000	60,000
Category D (Q – S)	86	246	332	3,250,000	450,000	400,000	60,000	60,000
Category E (T)	1	1	2	5,100,000	500,000	500,000	60,000	60,000
Category F (DPP)	1	4	5	10,150,000	500,000	500,000	75,000	75,000
TOTALS	1,467	2,512	3,979					

The following will be included in the cover.

- i. Pre-existing chronic and HIV (including ARVs) conditions will be covered up to the full outpatient and inpatient limit.
- ii. Treatment of HIV opportunistic conditions including anti-retroviral therapy and CD-4 Counts outpatient limit.
- iii. Pre - natal and postnatal services are covered within the outpatient limit.
- iv. Post hospitalization visits will be covered up to Kshs. 50,000 for a maximum of one month.
- v. KEPI and baby friendly/private vaccinations are covered within the outpatient visits for children aged 5 years and below.
- vi. One PSA and Pap smear for the employees and their spouses.
- vii. Annual Medical check-ups.
- viii. Inpatient dental and optical hospitalization resulting from an illness and accident.
- ix. Treatment of congenital defects - full outpatient and full inpatient limits.
- x. Provision of overseas treatment up to the full inpatient limit.
- xi. Provision of private wards to Psychiatric illness.
- xii. Counselling to be done both on outpatient and inpatient without referral.
- xiii. Provision up to six weeks medical and travel insurance to employees whenever travelling outside the country.
- xiv. Ante natal and post-natal illness - Inpatient Admissions before 30 weeks and any other maternity related complication to be part of inpatient cover.
- xv. Infertility treatment (including IVF, IUI, Endometriosis, Fallopian Tubes, testing and medication).
- xvi. Administration to be done by use of Virtual/Biometric Identification.
- xvii. Allow the utilization of inpatient limits in case the outpatient limits are depleted.

a) Staff

Indemnity against OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS's expenses incurred by employees and their dependents during the period of the policy.

Benefits:

- Inpatient
- Out-patient
- Drugs and administration
- Optical

- Dental
- Maternity
- Last expenses for member's spouse and dependents

Other benefits:

- Sum Insured: (Schedule provided)

b) Cancellation Notice of 60 days

c) Eligibility

The proposed scheme shall cover all ODPP Staff. It shall also cover the employee's spouse and dependent children below the age of 25 years. Dependent children living with disability shall be covered up to the exit of the Principal Member.

Scope of Proposed Medical Services

The provider is expected to provide efficient and effective medical services for the staff and their dependents. The summary of benefits and total population is provided herein.

The medical services must be easily available and accessible to the staff and their dependents as and when required. The number of the staff and their dependents may change from time to time and OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS will update the service provider appropriately.

The scheme covers In-patient and Out-patient services.

Inpatient Services:

Provide quality inpatient medical services. The Inpatient scheme should encompass the following benefits:

- Hospitalization including full diagnosis and treatment, discharge from hospital and the cost of treatment.
- Post Hospitalization benefits.

- Accommodation and meals for care taker, parent/guardian accompanying a child below 12 years.
- Dental and optical hospitalization resulting from an accident will each be covered within the limits.
- The Inpatient optical and dental treatment for illness necessitating hospitalization will be covered within the limits.
- Specialists fee including physician, surgeons, anaesthetist etc.
- Pre-existing and chronic recurrent conditions including hypertension, asthma, diabetes, cancer related illness, arthritis and pre-existing surgical conditions.
- Congenital conditions and neonatal expenses.
- Inpatient Psychiatric Treatment.
- Laboratory investigations, X-rays, ultrasound, ECG, MRI Scans.
- Prescribed drugs, dressings, surgical appliances and nursing procedures.
- Medical Appliances (Hearing Aids, Glucometer, Insulin delivery devices, Urine Catheters & Accessories etc.).
- Radiology X-ray, ultrasound, ECG and computerized Tomography, MRI scans.
- Radiotherapy and chemotherapy.
- Pathology (laboratory) fees.
- Post Hospitalization attendant therapy up to three months.
- Access to medical specialists while admitted.
- Inpatient physiotherapy.
- Gynecological treatment.
- Day surgery admissions including dental, optical, gynecological as well as all other services.
- Operating theatre charges.
- Intensive care unit (ICU) and High Dependency Unit (HDU) charges.
- Laser Surgery.
- Wellness services.
- Treatment for alcoholism and drug addictions.

- Palliative or analgesic care.
- Provision of Maternity benefits including Caesarian section.
- Cost of medical circumcision.
- Accident hospitalization.
- Rescue and evacuation in case of emergency.
- Treatment overseas if not locally available where advised by a medical practitioner.
- Management and treatment of severe respiratory illness including but not limited to COVID-19 where such illness is severe and requires use of a respiratory or oxygen concentrator.
- All Pandemics (including COVID-19) to be covered within limit.
- Medical services for HIV/AIDs including counseling, treatment, providing anti-retroviral and other related drugs.
- To cover medical expenses arising from injuries as a result of Terrorism and riots where the insured is a victim.
- Infertility treatment (including IVF, IUI, Endometriosis, Fallopian Tubes, testing and medication).
- Oncology treatment.
- Dialysis procedure.
- Include hospital accommodation charges net of NHIF rebate.
- No waiting period.
- Any additional benefit(s) should be specified by the bidder.
- Any other service not included above but which may be mutually agreed upon from time to time.

Outpatient Cover

The scope of the cover for Out-patient medical services shall apply to all medical related illnesses and will include the following:

- Routine outpatient consultation.

- Prescribed physiotherapy.
- Prescribed drugs and dressings.
- Immunizations-KEPI
- Baby Friendly/Private vaccines for babies from Birth to 5 years as listed below within prescribed limit including but not limited to:
 - a. BCG - Tuberculosis
 - b. HEP B - Hepatitis B
 - c. HJB - Meningitis (Haemophilus influenzae type b)
 - d. OPV - Oral Polio Vaccine
 - e. MMR - Measles Mumps Rubella
 - f. IPV - Injectable Polio Vaccine
 - g. DTAP - Diphtheria Tetanus A cellular Pertussis
 - h. DT - Diphtheria Tetanus
 - i. ROTA Virus
 - j. Zika Virus
 - k. Chicken pox
 - l. COVID-19 vaccine
 - m. Flu vaccine
 - n. Cholera Vaccine
 - o. Typhoid vaccine
 - p. Cholera vaccine
- Counseling Services.
- Family planning & fertility tests.
- Impotence drugs.
- Diagnostic equipment (e.g. Glucometers, BP Machines etc.) and hearing aids.
- Circumcision.
- Prescribed supplements by medical practitioner
- Prescribed soaps and oils e.g. Oilatum, Epimax for eczema
- Recommended travel vaccines - yellow fever, polio.

- Annual Medical Checkup as prescribed by a doctor for principal member and spouse which will include but not limited to: -
 - i. Height/ Weight check
 - ii. Blood pressure check
 - iii. Cholesterol level check
 - iv. Blood sugar test
 - v. Throat check
 - vi. Ear check
 - vii. Eye check
 - viii. Electrocardiogram Test
 - ix. Electroencephalogram
 - x. Pap smear
 - xi. Urinalysis
 - xii. Uric acid test
 - xiii. Gamma GT
 - xiv. Stool microscopy
 - xv. Physical examination and counseling
 - xvi. Lipid profile
 - xvii. ECG
 - xviii. Vitamin tests
- Alternative treatment i.e. acupuncture and chiropractor, on referral
- Non-motorized wheel chairs, frames and crutches
- Counseling, testing, treatment of HIV related opportunistic diseases and provision of anti- retroviral drugs.
- Attendance to other opportunistic and terminal diseases such as TB, cancer etc.
- Alcoholism, drug and substance abuse treatment, counseling and rehabilitation services.
- Pre – existing Conditions
- Diagnostic X-Ray and Laboratory Tests.

- Radiology X-ray, ultrasound, EEG, ECG and Computerized Tomography, MRI scans.
- Dental Services-to include extraction, root canal, fillings, scaling necessitated by a medical condition.
- Optical services (Frames, lenses, contact lenses, bi- Focal lenses, Visual examination)
- Referrals to Specialists (Pediatricians, Obstetricians, gynecologists, lactation specialists, Neonatologists, Orthopedic doctors, dermatologists, E.N.T. doctor's etc.).
- Andrological /Gynecological services
- Psychiatrist treatment
- Comprehensive Baby vaccinations (No vaccine exclusions)
- Maternity services i.e. Anti and Post Natal.
- HIV/AIDS (Voluntary counseling and testing and other related treatments), PID, STI related conditions cover.
- Pandemic diseases Vaccinations
- PSA test (prostate antigen test) for male employees and spouses and one pap- smear test and a mammogram for female employees and spouses per annum.
- Vaccination for diseases such as Hepatitis B
- Dialysis procedures.
- Medical appliances prescribed by a medical practitioner (hearing aids, Glucometer, Insulin delivery devices, urine catheters and accessories etc) should be covered up to the full limit
- No waiting period
- Allow the utilization of inpatient limits in case the outpatient limits are depleted.
- Any additional benefits should be specified by the Tenderer
- All exclusions should be specified by the Tenderer

Other details to be contained in the Bidders' proposal:

Bidders must demonstrate that they have the knowledge and experience in the provision of medical services. The bids should comprise medical scheme proposal(s) indicating:

a. The benefits and associated costs of Inpatient and outpatient.

The Medical Service Provider(s) identified should have an extensive and reputable network of Hospitals, Clinics, Pharmacies and Laboratories within easy reach of ODPP staff and their dependents.

b. Administration of the Scheme

- The firm shall ensure that services are provided to employees and their beneficiaries with as little paper work and inconvenience as possible.
- The Bidder shall be required to clearly state the procedures (in-patient and out-patient) to be followed by the employee(s) and beneficiary (ies) in the provision of medical services, stating clearly the responsibilities of the parties involved.
- Where applicable, the bidder shall provide OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS with statements on their medical Accounts.

c. Member/Employee Identification

The Bidder shall be expected to define a clear procedure of Identification of Employees and their Beneficiaries.

d. Employee/Beneficiary Data Management

- The Bidder shall be expected to liaise with OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS on matters regarding Employee Data updates.
- The Bidder shall therefore be required to provide a procedure for the maintenance of Employee/Beneficiary records.
- The bidder shall undertake to retain the utmost confidentiality of member details including utilization which can only be shared to the DPP in person or the dedicated contract manager or upon express authorization of either of them.

e. List of Service Providers

- The Bidder shall be required to provide a comprehensive list of all the Hospitals,

Clinics, Doctors, Specialists, Pharmacies and Chemists in their panel.

- The Bidder shall however not limit beneficiaries to their panel only.

f. Scheme Reports

The Bidder shall be required to provide to OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS Quarterly and Annual Reports on the global utilization of services including expenditure reports for Inpatient and Outpatient claims as well as any other reports that may be required by OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS from time to time.

Quarterly Expenditure Statement Reports on each individual Employee.

g. Medical Services Providers

The bidders are required to complete the matrix below which shall be the basis for evaluation criteria in Service Distribution Network and Facilities within Kenya).

No.	Location in Kenya (47 – Counties)	No. of Hospitals	No. of Chemists	No. of General Practitioners	No. of Specialist	No. of Labs and X- Ray
1.	Baringo					
2.	Bomet County					
3.	Bungoma County					
4.	Busia County					
5.	Elgeyo/ Marakwet County					
6.	Embu County					
7.	Garissa County					

No.	Location in Kenya (47 – Counties)	No. of Hospitals	No. of Chemists	No. of General Practitioners	No. of Specialist	No. of Labs and X- Ray
8.	Homa Bay County					
9.	Isiolo County					
10.	Kajiado County					
11.	Kakamega County					
12.	Kericho County					
13.	Kiambu County					
14.	Kilifi County					
15.	Kirinyaga County					
16.	Kisii County					
17.	Kisumu County					
18.	Kitui County					
19.	Kwale County					
20.	Laikipia County					
21.	Lamu County					
22.	Machakos County					
23.	Makueni County					
24.	Mandera County					
25.	Marsabit County					

No.	Location in Kenya (47 – Counties)	No. of Hospitals	No. of Chemists	No. of General Practitioners	No. of Specialist	No. of Labs and X- Ray
26.	Meru County					
27.	Migori County					
28.	Mombasa County					
29.	Murang'a County					
30.	Nairobi County					
31.	Nakuru County					
32.	Nandi County					
33.	Narok County					
34.	Nyamira County					
35.	Nyandarua County					
36.	Nyeri County					
37.	Samburu County					
38.	Siaya County					
39.	Taita Taveta County					
40.	Tana River County					
41.	Tharaka Nithi County					

No.	Location in Kenya (47 – Counties)	No. of Hospitals	No. of Chemists	No. of General Practitioners	No. of Specialist	No. of Labs and X- Ray
42.	Trans Nzoia County					
43.	Turkana County					
44.	Uasin Gishu County					
45.	Vihiga County					
46.	Wajir County					
47.	West Pokot County					

IMPORTANT NOTES TO THE BIDDER

- No changes on sub-limits that are to the disadvantage of the procuring entity can be introduced after the award.
- For any bidder who have provided this service to Office of the Director of Public Prosecutions (ODPP) before, should they be successful in this tender, they will enter into a new contract with the Office of the Director of Public Prosecutions and the cover benefits should not be limited in any way by tying them to the benefits that are currently existing to staff e.g limitation on spectacles to two years that take into account periods in the past covers, number of dependents etc.
- Office of the Director of Public Prosecutions will make payments for the premium directly to the successful **insurer**.
- Negotiations **may be** held with the tenderer with the lowest evaluated bidder, and upon successful negotiations will be awarded the contract. If negotiations fail with the tenderer with the lowest evaluated bidder, the bidder with the second lowest evaluated bidder will be invited by ODPP for negotiations, and upon successful negotiations, be awarded the tender.

PART III: CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VI - GENERAL CONDITIONS OF CONTRACT

A. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) The Adjudicator is the person appointed jointly by the Procuring Entity and the Service Provider to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.
- b) "Activity Schedule" is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;
- c) "Completion Date" means the date of completion of the Services by the Service Provider as certified by the Procuring Entity
- d) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- e) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;
- f) "Day works" means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration.
- g) "Procuring Entity" means the Procuring Entity or party who employs the Service Provider
- h) "Foreign Currency" means any currency other than the currency of Kenya;
- i) "GCC" means these General Conditions of Contract;
- j) "Government" means the Government of Kenya;
- k) "Local Currency" means Kenya shilling;
- l) "Member," in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Service Provider' rights and obligations towards the Procuring Entity under this Contract;
- m) "Party" means the Procuring Entity or the Service Provider, as the case maybe, and "Parties" means both of them;
- n) "Personnel" means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part there of;
- o) "Service Provider" is a person or corporate body whose Tender to provide the Services has been accepted by the Procuring Entity;
- p) "Service Provider's Tender" means the completed Tendering Document submitted by the Service Provider to the Procuring Entity
- q) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;

- r) "Specifications" means the specifications of the service included in the Tendering Document submitted by the Service Provider to the Procuring Entity
- s) "Services" means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider's Tender.
- t) "Subcontractor" means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4;
- u) "Public Procurement Regulatory Authority (PPRA)" shall mean the Government Agency responsible for oversight of public procurement.
- v) "Project Manager" shall be the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor.
- w) "Notice of Dissatisfaction" means the notice given by either Party to the other indicating its dissatisfaction and intention to commence arbitration.

1.2 Applicable Law

The Contract shall be interpreted in accordance with the laws of Kenya.

1.3 Language

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

1.4 Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, hand delivery, or email to such Party at the address **specified in the SCC**.

1.5 Location

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

1.6 Authorized Representatives

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

1.7 Inspection and Audit by the PPRA

Pursuant to paragraph 2.2 e. of Attachment 1 to the General Conditions, the Service Provider shall permit and shall cause its sub contract or sand sub-consultants to permit, PPRA and/or persons appointed by 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 PPRA. The Service Provider's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 3.10 which provides, inter alia, that acts intended to materially impede the exercise of PPRA's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to PPRA's prevailing sanctions procedures).

1.8 Taxes and Duties

The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. Commencement, Completion, Modification, and Termination of Contract

2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as maybe **stated in the SCC**.

2.2 Commencement of Services

2.2.1 Program

Before commencement of the Services, the Service Provider shall submit to the Procuring Entity for approval a Program showing the general methods, arrangements order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.

2.2.2 Starting Date

The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be **specified in the SCC**.

2.3 Intended Completion Date

Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is **specified in the SCC**. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.

2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

2.4.1 Value Engineering

The Service Provider may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

- a) The proposed change(s), and a description of the difference to the existing contract requirements;
- b) A full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs, if applicable) the Procuring Entity may incur in implementing the value engineering proposal; and

- c) A description of any effect(s) of the change on performance/functionality.

The Procuring Entity may accept the value engineering proposal if the proposal demonstrates benefits that:

- a) accelerates the delivery period; or
- b) reduces the Contract Price or the lifecycle costs to the Procuring Entity; or
- c) improves the quality, efficiency, safety or sustainability of the services; or
- d) yields any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

If the value engineering proposal is approved by the Procuring Entity and results in:

- a) a reduction of the Contract Price; the amount to be paid to the Service Provider shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or
- b) an increase in the Contract Price; but results in a reduction in lifecycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Service Provider shall be the full increase in the Contract Price.

2.5 Force Majeure

2.5.1 Definition

For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, the Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Procuring Entity

The Procuring Entity may terminate this Contract, by not less than thirty(30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs(a)through(d) of this Sub-Clause 2.6.1:

- a) If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Procuring Entity may have subsequently approved in writing;
- b) if the Service Provider become insolvent or bankrupt;
- c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- d) if the Service Provider, in the judgment of the Procuring Entity has engaged in Fraud and Corruption, as defined in paragraph2.2a. of Attachment1 to the GCC, in competing for or in executing the Contract

2.6.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Procuring Entity, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and(b) of this Sub-Clause 2.6.2:

- a) If the Procuring Entity fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.6.3 Payment up on Termination

Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Procuring Entity shall make the following payments to the Service Provider:

- a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- b) except in the case of termination pursuant to paragraphs (a), (b), (d) of Sub-Clause 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.

3. Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contractor to the Services, as faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subcontractors or third parties.

3.2 Conflict of Interests

3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contractor the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contractor to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- a) During the term of this Contract, any business or professional activities in Kenya which would conflict with the activities assigned to them under this Contract;
- b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees' inactive duty or on any type of leave, to perform any activity under this Contract;
- c) After the termination of this Contract, such other activities as may be **specified in the SCC**.

3.3 Confidentiality

The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the Procuring Entity.

3.4 The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Service Provider's Actions Requiring Procuring Entity's Prior Approval

The Service Provider shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- a) Entering into a subcontract for the performance of any part of the Services,
- b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),
- c) changing the Program of activities; and

- d) Any other action that may be **specified in the SCC**.

3.6 Reporting Obligations

The Service Provider shall submit to the Procuring Entity the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents Prepared by the Service Provider to Be the Property of the Procuring Entity

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Procuring Entity, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.

3.8 Liquidated Damages

3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Procuring Entity at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Procuring Entity may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Over-payment

If the Intended Completion Date is extended after liquidated damages have been paid, the Procuring Entity shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC**.

3.9 Performance Security

The Service Provider shall provide the Performance Security to the Procuring Entity no later than the date specified in the Form of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

3.10 Fraud and Corruption

The Procuring Entity requires compliance with the Government's Anti-Corruption laws and its

prevailing sanctions. The Procuring Entity requires the Service Provider 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.

3.11 Sustainable Procurement

The Service Provider shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC.

4. Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Procuring Entity.

4.2 Removal and/or Replacement of Personnel

- a) Except as the Procuring Entity may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.
- b) If the Procuring Entity finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Procuring Entity's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Procuring Entity.
- c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. Obligations of the Procuring Entity

5.1 Assistance and Exemptions

The Procuring Entity shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as **specified in the SCC**.

5.2 Change in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2(a) or (b), as the case may be.

5.3 Services and Facilities

The Procuring Entity shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6. Payments to the Service Provider

6.1 Lump-Sum Remuneration

The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.

6.2 Contract Price

- a) The price payable is **set forth in the SCC**.
- b) Price may be payable in foreign currency, if so allowed in this document.

6.3 Payment for Additional Services, and Performance Incentive Compensation

6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

6.3.2 **If the SCC so specify**, the service provider shall be paid performance incentive compensation as set out in the Performance Incentive Compensation appendix.

6.3.3 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (*which would be the tender price*), payment valuation certificates and variation orders on omissions and additions valued based on rates in the schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$.

6.4 Terms and Conditions of Payment

Payments will be made to the Service Provider according to the payment schedule **stated in the SCC**. **Unless otherwise stated in the SCC**, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC**. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to the Procuring Entity specifying the amount due.

6.5 Interest on Delayed Payments

If the Procuring Entity has delayed payments beyond thirty (30) days after the due date stated in the **SCC**, interest shall be paid to the Service Provider for each day of delay at the rate stated in the **SCC**.

6.6 Price Adjustment

6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c L_{mc} / L_{oc} + C_c I_{mc} / I_{oc}$$

Where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency “c”.

A_c , B_c and C_c are coefficients specified in the **SCC**, representing: A_c the non-adjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency “c”; and

L_{mc} is the index prevailing at the first day of the month of the corresponding invoiced amount and L_{oc} is the index prevailing 28 days before Tender opening for labor; both in the specific currency “c”.

I_{mc} is the index prevailing at the first day of the month of the corresponding invoice date and I_{oc} is the index prevailing 28 days before Tender opening for other inputs payable; both in the specific currency “c”.

If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Z_o/Z_n will be applied to the respective component factor of p_n for the formula of the relevant currency. Z_o is the number of units of Kenya Shillings of the index, equivalent to one unit of the currency payment on the date of the base index, and Z_n is the corresponding number of such currency units on the date of the current index.

6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

6.7 Day works

6.7.1 If applicable, the Day work rates in the Service Provider's Tender shall be used for small additional amounts of Services only when the Procuring Entity has given written instructions in advance for additional services to be paid in that way.

6.7.2 All work to be paid for as Day works shall be recorded by the Service Provider on forms approved by the Procuring Entity. Each completed form shall be verified and signed by the Procuring Entity representative as indicated in Sub-Clause 1.6 within two days of the Services being performed.

6.7.3 The Service Provider shall be paid for Day works subject to obtaining signed Day works forms as indicated in Sub-Clause 6.7.2

7. Quality Control

7.1 Identifying Defects

The principle and modalities of Inspection of the Services by the Procuring Entity shall be as **indicated in the SCC**. The Procuring Entity shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Procuring Entity may instruct the Service Provider to search for a Defect and to uncover and test any service that the Procuring Entity considers may have a Defect. Defect Liability Period is as **defined in the SCC**.

Correction of Defects, and Lack of Performance Penalty

- a) The Procuring Entity shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
- b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Procuring Entity's notice.
- c) If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, the Procuring Entity will assess the cost of having the Defect corrected, the Service Provider will pay this amount and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

8. Settlement of Disputes

8.1 Contractor's Claims

8.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.

8.1.2 If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub- Clauses shall apply.

8.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all s relevant to such event or circumstance.

8.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Procuring Entity's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and /or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

8.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and /or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

8.1.5.1 This fully detailed claim shall be considered as interim;

- a) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and /or amount claimed, and such further particulars as the Project Manager may reasonably require; and
- b) The Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

8.1.6 Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

8.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause 3.5[Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

8.1.8 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

8.1.9 If the Project Manager does not respond within the time framed fixed in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 8.2 [Matters that may be referred to arbitration].

8.1.10 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.

8.2 Matters that may be referred to arbitration

8.2.1 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Services or abandonment of the Services or termination of the Contract by either party:

- a) The appointment of a replacement Project Manager upon the said person ceasing to act.
- b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions
- c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- e) Any dispute arising in respect of war risks or war damage.
- f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Services or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

8.3 Amicable Settlement

8.3.1 Where a Notice of Dissatisfaction has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a Notice of Dissatisfaction in accordance with Sub-Clause 8.1 above should move to commence arbitration after the fifty-sixth day from the day on which a Notice of Dissatisfaction was given, even if no attempt at an amicable settlement has been made.

8.4 Arbitration

8.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 8.3 shall be finally settled by arbitration. Arbitration shall be conducted in accordance with the Arbitration Laws of Kenya.

8.4.2 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

8.4.3 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

8.4.4 Arbitration may be commenced prior to or after completion of the services. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the services.

8.4.5 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.

8.5 Arbitration with proceedings

8.5.1 In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final

decision of a person 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;

- a) Law Society of Kenya or
- b) Chartered Institute of Arbitrators (Kenya Branch)

8.5.2 The institution written to first by the aggrieved party shall take precedence over all other institutions.

8.5.3 The arbitration maybe on the construction of this Contractor on any matter or thing of what so ever nature arising there under or in connection there with, including any matter or thing left by this Contract to the discretion of the Project Manager, or the withholding by the Project Manager of any certificate to which the Contractor may claim to been titled to or the measurement and valuation referred to in clause 23.0 of these conditions, or the rights and liabilities of the parties subsequent to the termination of Contract.

8.5.4 Provided that 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 ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

8.5.5 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.

8.5.6 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests 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 certificate.

8.5.7 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

8.5.8 The award of such Arbitrator shall be final and binding upon the parties.

8.6 Failure to Comply with Arbitrator's Decision

8.6.1 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

9. The Adjudicator

9.1 Should the Adjudicator resign or die, or should the Procuring Entity and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract; a new Adjudicator will be jointly appointed by the Procuring Entity and the Service

Provider. In case of disagreement between the Procuring Entity and the Service Provider, within 30 days, the Adjudicator shall be designated by the Appointing Authority **designated in the SCC** at the request of either party, within 14 days of receipt of such request.

9.2 The Adjudicator shall be paid by the hour at the rate **specified in the TDS and SCC**, together with reimbursable expenses of the type's **specified in the SCC**, and the cost shall be divided equally between the Procuring Entity and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.

SECTION VII - SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1	The Parties to the Contract are: The Procuring Entity is Office of the Director of Public Prosecutions The Insurance Provider is Lowest Responsive Tenderer The contract name is Provision of Medical Insurance and Last Expense Cover for the Office of the Director of Public Prosecutions (ODPP) Staff
1.4	For notices, the Procuring Entity's address shall be: Attention: Director of Public Prosecutions Postal address: 30701 - 00100 Physical Address: ODPP House, Ragati Road, Upper Hill Telephone: <i>[include telephone number, including country and city codes]</i> Electronic mail address: info@odpp.go.ke / procurement@odpp.go.ke
1.6	The Authorized Representatives are: For the Procuring Entity: Director of Public Prosecutions Postal Address: 30701-00100 Email: info@odpp.go.ke / procurement@odpp.go.ke For the Insurance Provider: TBD (<u>THE AWARDED/ CONTRACTED FIRM</u>) <i>[Name, Postal Address, Email, Telephone Number]</i>
2.1	The date on which this Contract shall come into effect is 1st October, 2024
2.2	The Commencement date and duration of the insurance cover shall be: Commencement date 1st October, 2024 Completion or Expiry Date: 30th September, 2026 Duration of the coverage Two (2) years
2.6	Cancellation Notice of 60 days
3.2.3 (c)	After the termination of this Contract, the activities are: Report to PPRA

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
3.6.1	The liquidated damages per day is as determined by a competent Judicial process. The date by when the compensation costs should be made is as stipulated by the Judicial process. The total amount of liquidated damages shall not exceed _____
6.2 – 6.3	Contract Price is As per tender sum submitted and accepted by the ODPP The price shall be made in one lump sum on contract signature. Other prorated payments shall be made as new staff admitted to the scheme.
6.4	Interest shall be paid to the Insurance Provider for each day of delayed payment at the rate of _____% per month.
8.4.1	The rules of procedure for arbitration proceedings <i>with a foreign Insurance Provider</i> shall be as follows: <i>[For contracts entered into with foreign sellers, International commercial arbitration may have practical advantages over other dispute settlement methods].</i> <i>(i) If the Procuring Entity chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:</i> Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. <i>(ii) If the Procuring Entity chooses the Rules of ICC, the following sample clause should be inserted:</i> All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of <i>the International Chamber of Commerce</i> by one or more arbitrators appointed in accordance with said Rules. <i>(iii) If the Procuring Entity chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:</i> Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	(iv) <i>If the Procuring Entity chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:</i> Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause.

APPENDIX TO THE CONTRACT

The Appendix to the contract shall be an **Insurance Policy** that shall provide a description of the Services, compensation procedure and all the contingencies that shall lead to the compensation claim. The Policy is an industry form (the norm) but would be negotiated before signature to ensure all parties concerns are taken into account. No provision or Clause in the Insurance Policy shall negate any Condition of Contract.

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

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

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

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

Tender Reference No.: _____ [insert identification no]

Name of the Tender Title/Description: _____ [insert name of the assignment]

to: _____ [insert complete name of Procuring Entity]

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

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

Details of beneficial ownership

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly)	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
1.	Full Name		Directly----- % of shares	Directly.....% of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of	1. Exercises significant influence or control over the Company body of the
	National identity card number or Passport number					

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

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly)	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
	Residential address				Direct.....	
	Telephone number				...	Direct.....
	Email address					
	Occupation or profession				Indirect.....	Indirect.....
					...	
3.						
e.						
t						
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- II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*
- III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:
- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
 - (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;

- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

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

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

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

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

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

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

Bidder Official Stamp

CURRENT POPULATION

	Categories					Grand Total
Family Size	Category A (D-K)	Category B (L – M)	Category C (N – P)	Category D (Q – S)	Category E (T)	Category F (DPP)
Total Principal Members						
Dependents						
Total Population						
GRAND TOTAL						

CURRENT POPULATION

Categor ies	Memb ers	Depend ents	Total Popula tion	In- Paten t Limit (Per Famili y)	Out- Paten t (Per Family)	Materni ty (Per Family)	Dent al (Per Famili y)	Optic al Limit (Per Famili y)
Categor y A (D-K)	774	1,103	1,877	2,500,000	300,000	400,000	60,000	60,000
Categor y B (L – M)	432	786	1,218	2,750,000	350,000	400,000	60,000	60,000
Categor y C (N – P)	173	372	545	3,000,000	400,000	400,000	60,000	60,000
Categor y D (Q – S)	86	246	332	3,250,000	450,000	400,000	60,000	60,000
Categor y E (T)	1	1	2	5,100,000	500,000	500,000	60,000	60,000
Categor y F (DPP)	1	4	5	10,150,000	500,000	500,000	75,000	75,000
TOTAL S	1,467	2,512	3,979					