



MATER MISERICORDIAE HOSPITAL

REQUEST FOR PROPOSAL

FOR

CONSULTANCY SERVICES FOR MARKET RESEARCH: PROPOSAL FOR LOCATION OF NEW SATELLITE MEDICAL CENTERS

Tender No: MMH/GEN/26/11

Closing Date: Wednesday 29th July, 2026 at 11.00 am (EA Time)

JULY, 2026

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INTRODUCTION

Mater Misericordiae Hospital (MMH) is seeking proposals for market research for the location of its new Satellite Medical Centers.

MMH operates a hub and spoke model for its healthcare facilities. The hub (main hospital) is located in South B, Nairobi County and spoke (satellites) located in Westlands area of Nairobi, Kasarani (Thika Road Mall- TRM), BuruBuru, Nairobi CBD, and Thika Town.

SECTION I-INVITATION FOR TENDER

DATE OF NOTICE: Friday 10th July, 2026

TENDER REF.: MMH/GEN/26/11

TENDER NAME: CONSULTANCY SERVICES FOR MARKET RESEARCH: PROPOSAL FOR LOCATION OF NEW SATELLITE MEDICAL CENTERS

- 1 The Mater Misericordiae Hospital invites sealed bids from eligible candidates for CONSULTANCY SERVICES FOR MARKET RESEARCH: PROPOSAL FOR LOCATION OF NEW SATELLITE MEDICAL CENTERS
- 2 Interested candidates can obtain further information from and download the tender document from the Hospital's website www.materkenya.com/tender. Tenderers who download the tender document must forward their particulars immediately to **tenders@materkenya.com; copied to aanvango@materkenya.com, jnyarangi@materkenya.com** to facilitate any further clarification or addendum. Inquiries will be made through the same email address.

2.1 Payment of the Tender price is subject to the following terms:

- a) Bidders shall pay a non-refundable fee of **Kshs 2,000.00 via M-pesa (Paybill 526000; Ac. No. "Your Company Name, Tender No. provided")**. The M-pesa payment message or an original receipt obtained from our Casualty cashier shall be printed and attached to the tender response document.

2.2 Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for 150 days from the closing date of the tender.

- 2.3 In addition, invited tenderers must take note of all mandatory requirements as highlighted in the Appendix to Instructions to Tenderers; Mandatory Requirements, Technical Requirements, Price Schedules, and other pertinent information.
- 2.3.1 Completed tender documents are to be enclosed in plain sealed envelopes, marked envelope clearly labeled the Tender Number and Name with the instructions “Do not open before **“Wednesday 29th July, 2026 at 11.00 am”** and will be addressed to
- THE CHIEF EXECUTIVE OFFICER
THE MATER MISERICORDIAE HOSPITAL
P. O. BOX 30325 - 00100,
NAIROBI**
- 2.3.2 **Dropped at the Tender Box located at the reception of the Administration Block, 3rd Floor.**
- 2.3.3 Mater Misericordiae Hospital is a Corruption free environment. Any Pressure, influence attempt should report to the Chief Executive Officer

SECTION II -INSTRUCTION TO TENDERERS

SECTION 2. INSTRUCTIONS TO CONSULTANTS AND APPENDIX

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

Instructions to Consultants, shall not be modified. Any necessary changes, to address specific issues, to supplement, but not over-write, the provisions of the Instructions to Consultants (ITC), shall be introduced through the Appendix only.

A. GENERAL PROVISIONS

1. Meanings/Definitions

- a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- b) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.

- c) “Procuring Entity” means the entity that is carrying out the consultant selection process and signs the Contract for the Services with the selected Consultant.
- d) “Consultant” means a legally established professional consulting firm or an entity that may provide or provide the Services to the Procuring Entity under the Contract.
- e) “Contract” means a legally binding written agreement signed between the Procuring Entity and the Consultant and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- f) “Appendix” means an integral part of the Instructions to Consultants (ITC) Section 2 that is used to reflect specific assignment conditions to supplement, but not to over-write, the provisions of the ITC.
- g) “Day” means a calendar day unless otherwise specified as "Business Day". A Business Day is any day that is an official working day in Kenya and excludes official public holidays.
- h) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or Joint Venture member(s).
- i) “In writing” means communicated in written form such as by mail, or e-mail, including, if specified in the Appendix, distributed or received through the electronic-procurement system used by the Procuring Entity with proof of receipt.
- j) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- k) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is considered in the technical evaluation of the Consultant's proposal.
- l) “ITC” (this Section 2 of the RFP) means the Instructions to Consultants that provides the Consultants with all information needed to prepare their Proposals.
- m) “Letter of RFP” means the letter of invitation being sent by the Procuring Entity to the Consultants.
- n) “RFP” means the Request for Proposals to be prepared by the Procuring Entity for the selection of Consultants.
- o) “Services” means the work to be performed by the Consultant pursuant to the Contract.
- p) “Sub-consultant” means an entity to whom the Consultant intends to subcontract any part of the Services while the Consultant remains responsible to the Procuring Entity

during the whole performance of the Contract.

- v) “Terms of Reference (TORs)” means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, and expected results and deliverables of the assignment.

2. Introduction

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

3. Conflict of Interest

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, always holding the Procuring Entity's interest's paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 3.2 The Consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of the Procuring Entity. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Appendix, the Consultants shall not be hired under the circumstances set forth below:
 - i) *Conflicting Activities*
Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Procuring Entity to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to

those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

ii) *Conflicting Assignments*

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

(iii) *Conflicting Relationships*

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

iv) *Others*

Any other types of conflicting relationships as indicated in the Appendix.

4. Unfair Competitive Advantage

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

5. Corrupt and Fraudulent Practices

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

5.2 Collusive practices

- 5.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any Consultant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Consultants shall be required to complete and sign the “Certificate of Independent Proposal Determination” annexed to the Proposal Form.
- 5.3 In further pursuance of this policy, Consultants shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Government and its agencies to inspect all accounts, records and other documents relating to any short-listing process, Proposal submission, and contract performance (in the case of award), and to have them audited by auditors, investigators or compliance officers.

6. Eligibility

- 6.1 In selection of consultants, short-listing shall be composed of firms or individuals who belong to the same line of professional business and who are almost of the same capability.
- 6.2 Unless otherwise specified in the Appendix, the Procuring Entity permits Consultants including proposed experts, joint ventures and individual members from all countries and categories to offer consulting services. The maximum number of members so far JV shall be specified in the TDS.
- 6.3 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for submission of proposals, but it shall be a condition of contract award and signature. AJV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 6.4 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract.
- 6.5 It is the Consultant's responsibility to ensure that it's Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements.

B. Preparation of Proposals

7. General Considerations

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

8. Cost of Preparation of Proposal

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

9. Language

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

10. Documents Comprising the Proposal

- 10.1 The Proposal shall comprise the documents and forms listed in the Appendix.
- 10.2 The Consultant shall declare in the Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid rigging.
- 10.3 The Consultant shall furnish information on commissions, gratuities and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal Submission Form.

11. Only One Proposal

- 11.1 The Consultant (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude Sub-consultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the Appendix.
- 11.2 Members of a joint venture may not also make an individual Proposal, be a subcontractor in a separate proposal or be part of another joint venture for the purposes of the same Contract.

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

12. Proposal Validity

a. Proposal Validity Period

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

b. Extension of Validity Period

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

b. Substitution of Key Experts at Validity Extension

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

c. Sub-Contracting

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

13. Clarification and Amendment of RFP

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

- 13.2 At any time before the proposal submission deadline, the Procuring Entity may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all invited Consultants and will be binding on them. The Consultants shall acknowledge receipt of all amendments in writing.

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

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

14. Preparation of Proposals—Specific Considerations

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

- (a) If a consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so long as only one Proposal is submitted, in accordance with ITC 11. Above. A Consultant cannot associate with shortlisted Consultant(s). When associating with non-shortlisted/non-invited firms in the form of a joint venture or a sub-consultancy, the shortlisted/invited Consultant shall be a lead member. If shortlisted/invited Consultant associates with each other, any of them can be a lead member.
- (b) The Procuring Entity may indicate in the Appendix the estimated amount or Key Experts' time input (expressed in person-month), or the Procuring Entity's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal

shall be based on the Consultant's own estimates for the same. This clause shall not apply when using Fixed Budget selection method.

- (c) For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input shall not be disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Appendix, and the Financial Proposal shall not exceed this budget.
- d) Key Experts shall not appear in more than one proposal unless so allowed in the Appendix. Invited firms must confirm and ensure their Key experts do not appear in proposal of other invited firms, otherwise proposals with Key experts appearing in other proposals will be rejected.

15. Proposal Format and Content

- 15.1 The Proposal shall be prepared using the Standard Forms provided in Section 3 of the RFP and shall comprise the documents listed in the Appendix under ITC 10.1. The Proposal MUST include financial information.
- 15.2 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

16. Financial Proposal

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

a. Price Adjustment

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

b. Taxes

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

c. Currency of Proposal

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

d. Currency of Payment

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

C. SUBMISSION, OPENING AND EVALUATION

17. Submission, Sealing, and Marking of Proposals

- 17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms. Consultants shall mark as “**CONFIDENTIAL**” information in their Proposals which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information. The submission can be done by mail or by hand. If specified in the Appendix, the Consultant has the option of submitting its Proposals electronically.
- 17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Proposal.
- 17.3 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.
- 17.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.
- 17.5 The signed Proposal shall be marked “**ORIGINAL**”, and its copies marked “**COPY**” as appropriate. The number of copies is indicated in the Appendix. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

18. Sealing and Marking of Proposals

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

- 18.2 In the single sealed envelope, or in a single sealed package, or in a single sealed container the following documents shall be enclosed and shall be addressed as follows:
- i) in an envelope or package or container marked “ORIGINAL”, all documents comprising the Proposal, as described in ITC11;
 - ii) in an envelope or package or container marked “COPIES”, all required copies of the Proposal;
- 18.3 The inner envelopes or packages or containers shall:
- i) Bear the name and address of the Procuring Entity.
 - ii) Bear the name and address of the Firm; and
 - iii) Bear the name and Reference number of the Assignment.
- 18.4 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the proposal. Proposals that are misplaced or opened prematurely will not be accepted.
- 18.5 The Proposal or its modifications must be sent to the address indicated in the Appendix and received by the Procuring Entity no later than the deadline indicated in the Appendix, or any extension to this deadline. Any Proposal or its modification received by the Procuring Entity after the deadline shall be declared late and rejected, and promptly returned unopened.

19. Confidentiality/Canvassing

- 19.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Procuring Entity on any matter related to its Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.
- 19.2 Any attempt by consultants or any one on behalf of the Consultant to influence improperly the Procuring Entity in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal.
- 19.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a consultant wishes to contact the Procuring Entity on any matter related to the selection process, it should do so only in writing.

20. Opening of Proposals

The tenderers or their representatives are encouraged to witness the opening session, which shall be conducted at a designated place on Wednesday **29th July 2026 at 11:00 a.m.**

- 20.1 At the opening of the Proposals the following shall be read out: (i) the name of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, (ii) any modifications to the Proposal submitted before proposal submission deadline; and (iii) any

other information deemed appropriate or as indicated in the Appendix.

21. Evaluation of Proposals

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

- a) Firm has submitted the required number of copies of the Proposals.
- b) The Proposal is valid for the required number of days.
- c) The Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
- d) The Proposal is complete with all the forms and required documentary evidence submitted.
- e) A valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14 for Kenyan firms.
- f) Key Experts are from eligible countries.
- g) Key Experts do not appear in more than one proposal, if so required.
- h) A short-listed firm has not participated in more than one proposal, if so required.
- i) The Consultant is not insolvent, in receivership, bankrupt or in the process of being wound up.
- j) The Consultant, its sub-consultants and experts have not engaged in or been convicted of corrupt or fraudulent practices.
- k) The firm has not proposed employing public officials, civil servants and employees of public institutions.
- l) The Consultant, its sub-consultants and experts have no conflicts of interest.

22.2 Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Appendix.

22. Correction of Errors

24.1 Activities and items described in the Proposal but not priced, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.

24.2 Time-Based Contracts-If a Time-Based contract form is included in the RFP, in case of discrepancy between (i) a partial amount(sub-total) and the total amount, or (ii)between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between figures and words, the later will prevail. In case of discrepancy between the

Proposals in indicating quantities of input, the Proposal prevails and the Procuring Entity's evaluation committee shall correct the quantification indicated in the Proposal so as to make it consistent with that indicated in the financial section, apply the relevant unit price included in the financial section to the corrected quantity, and correct the total Proposal cost.

- 24.3 Lump-Sum Contracts - If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical correction nor price adjustments shall be made. The total price, net of taxes understood as per ITC 24 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

23. Taxes

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

24. Conversion to Single Currency

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

25. Abnormally Low Prices

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

26. Abnormally High Prices

- 28.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the proposal, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between consultants is compromised.
- 28.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct, and review the RFP to check if the specifications, TOR, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Consultants on the reason or the high proposal price. The Procuring Entity shall proceed as follows:
- i) If the proposal price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
 - ii) If specifications, TOR, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all proposals and may re-invite for proposals for the contract based on revised estimates, specifications, TOR, scope of work and conditions of contract.
- 28.3 If the Procuring Entity determines that the Proposal Price is abnormally too high because genuine competition between consultants is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Proposals and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before re-inviting for proposals.

27. Combined Technical and Evaluation Report

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

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

- 30.1 The Procuring Entity shall send to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Consultant. The Notification of Intention to enter into a Contract / Notification of Award shall contain, at a minimum, the following information:
- i) The name and address of the Consultant with whom the Procuring Entity successfully negotiated a contract;
 - ii) the contract price of the successful Proposal;
 - iii) a statement of the reasons why the recipient's Proposal was unsuccessful

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

29. Standstill Period

31.1 The Standstill Period shall be the number of days stated in the Appendix. The Standstill Period commences the day after the date the Procuring Entity has transmitted to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract. The Contract shall not be signed earlier than the expiry of the Standstill Period. This period shall be allowed for aggrieved Consultants to lodge an appeal.

31.2 NEGOTIATIONS AND AWARD

30. Negotiations

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

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

32.3 Availability of Key Experts

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

32.4 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant.

32.5 Technical negotiations

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

32.6 Financial negotiations

The financial negotiations will be undertaken as stipulated in the Appendix; and include

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

31. Conclusion of Negotiations

- 33.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Hospital's and the Consultant's authorized representatives. The negotiations shall be in written form. If the negotiations fail, the Procuring Entity shall inform the Consultant in writing.
- 33.2 If disagreement persists, the Procuring Entity shall terminate the negotiations informing the Consultant of the reasons for doing so. The Procuring Entity will invite the next-ranked Consultant to negotiate a Contract. Once the Procuring Entity commences negotiations with the next-ranked Consultant, the Procuring Entity shall not reopen the earlier negotiations.

32. Letter of Award

- 33. Upon expiry of the Standstill Period, after satisfactorily addressing any appeal that has been filed within the Standstill Period, and upon successful negotiations, the Procuring Entity shall send a Letter of Award to the successful Consultant.

34. Signing of Contract

- 35.1 The Contract shall be signed prior to the expiration of the Proposal Validity Period and promptly after expiry of the Standstill Period.
- 35.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Appendix.

2.4 APPENDIX TO INSTRUCTIONS TO TENDERERS

Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

EVALUATION CRITERIA.

A. MANDATORY REQUIREMENTS: PRELIMINARY EVALUATIONS		
No.	Criteria	Comment
1	Copy of Company's or Firm's registration certificate/ Incorporation	Must Comply
2	Proof of Tax Compliance in the domicile country	
3	Duly filled, signed and stamped self-declaration form	
4	Copy of Certificate of Confirmation of Directors (CR12) less than 12 months old for a local limited company or equivalent for a foreign registered company from the domicile country.	
6	▪ A copy of the JV Agreement entered into by all members OR; ▪ A letter of intent to execute a JV Agreement, signed by all members together. Only where applicable.	
7	Evidence of at least three (3) similar market research, feasibility study, or healthcare location analysis assignments completed in the last five (5) years (attach contracts, completion certificates, reference letters, or award letters). Due diligence will be undertaken to qualify this information.	
8	Duly filled and signed Confidential Business questionnaire.	
9	ODPC Certificate as a data processor and controller	
<i>N.B Only firms that submit all the mandatory documents will proceed to Technical Evaluations</i>		

B. TECHNICAL EVALUATION CRITERIA

TERMS OF REFERENCE MARKET RESEARCH PROPOSAL FOR THE NEW SATELLITE MEDICAL CENTRES

Mater Misericordiae Hospital (MMH) is seeking proposals for market research for the location of its new satellite medical centers.

MMH operates a hub and spoke model for its healthcare facilities. The hub (main hospital) is located in South B, Nairobi County and spoke (satellites) located in Westlands area of Nairobi, Kasarani (Thika Road Mall- TRM), BuruBuru, Nairobi CBD, and Thika Town.

The market research should generate 10 possible sites in order of priority with a special emphasis on the regions of **Nairobi County, Kisumu County, Mombasa County, Machakos County, Nyeri County and Nakuru County** and meet the following objectives:

1. Patient demographics and needs;

What is the unmet patient needs and target demographics within the location?

Key Considerations;

- a) Healthcare gaps identified – identify services not being offered by nearby facilities with a special focus on specialist services
- b) Market segmentation – check on the target population and use metrics like age, social status to define potential patients
- c) Patient choices / preferences and needs – To address convenience and privacy needs for patients

2. Location, Visibility and Population Catchment area;

How easily can patients reach and access the new location?

Key considerations:

- a) The location should be visible and easily accessible to clients with the least travel cost/impedance; to and from.
- b) Should be a busy mall, stand-alone site or in a residential area with an assured footfall
- c) What is the proposed catchment area and its socio-economic characteristics?
- d) What is the disease burden of the catchment areas?

3.Pricing strategy and affordability

What are the key considerations in creating a dynamic pricing strategy for our services that assures a steady footfall and utilization of our services?

Key considerations:

- a) Analyze nearby healthcare facilities as to services being offered

- b) Check on the pricing of various services offered by the healthcare facilities including specialist clinics
- c) Explore additional services and Identify gaps in services offered by nearby healthcare facilities
- d) Implementation of a tiered pricing strategy and revenue management
- e) Insurances, corporates and employer sponsored care plans.

4. Situation (Environment) and Swot Analysis

Scan and analyze the market and identify threats / opportunities for viability of the clinic

Key considerations:

- a) Map nearby healthcare providers in each site identifying competitive advantages
- b) Conduct a SWOT analysis for relocation sites against already existing healthcare facilities

5. Market Entry Strategies

The researcher should advice on the most suitable market entry strategies

6. Risk assessment and Regulatory requirements

Key considerations:

- a) Assess and identify county or local licenses required for operation
- b) Assess the risk inherent to current patients as a result of relocation of the clinic from its current location to guard against loss of patients

7. Financial Feasibility

What will be the initial costs of set up and probable break-even point?

Key considerations:

- a) The market research should generate a cost-benefit analysis
- b) The proposed premise should be suitably priced in terms of rent and general amenities.
- c) Licensing and marketing costs
- d) Estimated revenue growth analysis

C. TECHNICAL REQUIREMENTS: TECHNICAL EVALUATIONS		
No.	Criteria	Maximum Score (100)
1	The bidder shall submit a detailed company profile demonstrating experience in market research, healthcare feasibility studies, or location analysis for healthcare facilities. 15 Marks Demonstrated experience in conducting market research and feasibility studies, preferably within the healthcare, real estate, retail, or service-oriented sectors – 15 Marks Submission of evidence of at least three (3) similar assignments completed in the last five (5) years, including: Contracts /Completion certificates /Recommendation/reference letters/Award letters.	30Marks
2	<u>Understanding of the Terms of Reference (TOR) –20 Marks</u> • Clear understanding of the assignment scope, objectives, and Mater Misericordiae Hospital's hub-and-spoke healthcare model, as outlined in the TOR – 10 Marks • Clear articulation of expected outputs and deliverables, including: Identification of suitable relocation sites, Market demand analysis, Patient demographics, financial feasibility and risk assessment – 10 Marks <u>Methodology and Work Plan – 20 Marks</u> • The bidder must submit a clear, logical, and realistic methodology tailored to healthcare market research, covering: 10 Marks • Patient demographics and unmet healthcare needs • Catchment area and disease burden analysis • Competitive landscape and SWOT analysis • Pricing and affordability analysis • Market entry strategies • Risk assessment and regulatory considerations A detailed work plan outlining key activity; Phases of the assignment, Timelines and milestones, Deliverables for each phase – 15 Marks Clear indication of resources required from MMH– 5 Marks	40 Marks
2	HUMAN RESOURCE CAPACITY <u>Team Leader / Lead Consultant– 20Marks</u> • At least a Bachelor's Degree in Economics, Business Administration, Statistics, Urban Planning, Health Economics, Marketing, or a related field (Master's Degree will be an added advantage) – 10 Marks • Minimum of five (5) years' experience leading market research or feasibility studies, preferably in healthcare or real estate-related assignments – 10 Marks <u>One Key Staff – 10 Marks</u> At least one key staff member with: • Bachelor's Degree in Statistics, Economics, Data Analytics, Market Research, or related field – 5 Marks • Minimum of three (3) years' experience in market research, data analysis, or feasibility studies – 5 Marks	30 Marks

	N.B Only firms with scores above 80%, shall qualify for financial evaluations.	
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FINANCIAL PROPOSAL FOR CONSULTANCY SERVICES FOR MARKET RESEARCH FOR LOCATION OF NEW SATELLITE MEDICAL CENTRES

PRICE SCHEDULE

DESCRIPTION	TOTAL AMOUNT (VAT INCL)
Consultancy Services for Market Research: Proposal for Location of New Satellite Medical Centers	
Any other costs	
Credit terms; Payment Terms would be 60 Days after completion of task.	

Name: **Signature** **Date**.....

(Authorized representative of the firm)

STAMP

SECTION III GENERAL CONDITIONS OF CONTRACT

GENERAL PROVISIONS

1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- a) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
 - b) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the Selected Consultant.
 - c) “Consultant” means a legally - established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
 - d) “Contract” means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
 - e) “Day” means a working day unless indicated otherwise.
 - f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC11.
 - g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
 - h) “Foreign Currency” means any currency other than the Kenya Shilling.
 - i) “GCC” means these General Conditions of Contract.
 - j) “Government” means the government of Kenya.
 - k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
 - l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken in to account in the technical evaluation of the Consultant's proposal.
 - m) “Local Currency” means the Kenya Shilling.
 - n) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
 - o) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both.

- p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- q) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- r) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- s) “Third Party” means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

2. Relationship between the Parties

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

2 Law Governing Contract

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

2.2 Language

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

3 Headings

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

4 Communications

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

5 Location

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

6 Authority of Member in Charge

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

7 Authorized Representatives

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

8 Corrupt and Fraudulent Practices

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

a. Commissions and Fees

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

Commencement, Completion, Modification and Termination of Contract.

9 Effectiveness of Contract

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

10 Termination of Contract for Failure to Become Effective

- 10.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than thirty (31) days written notice to the other Party, declare this contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

11 Commencement of Services

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

12 Expiration of Contract

12.1 Unless terminated earlier, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

15 Entire Agreement

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

14 Modifications or Variations

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

14.2 In cases of substantial modifications or variations.

15 Force Majeure

a. Definition

15.1 For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations here under impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

15.2 Force Majeure shall not include (i) any event which is caused by then negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations here under.

15.3 Force Majeure shall not include in sufficiency of funds or failure to make any payment required here under.

b. No Breach of Contract

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

c. Measures to be taken

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

16 Suspension

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

17 Termination

- 17.1 This Contract may be terminated by either Party as per provisions setup below:

a. By the Procuring Entity

- 17.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case

of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

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

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

b. By the Consultant

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

- a If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- b If the Procuring Entity fails to comply with any final decision reached as a result of arbitration
- c If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same during the period subsequently approved in writing; following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

c. Cessation of Rights and Obligations

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

d. Cessation of Services

17.1.5 Upon termination of this Contract by notice of either Party the Consultant shall, unless otherwise agreed by both parties, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed.

e. Payment upon Termination

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

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

OBLIGATIONS OF THE CONSULTANT

18 General

a. Standard of Performance

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

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

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

b. Law Applicable to Services

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

19 Conflict of Interests

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

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

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

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

b. Consultant and Affiliates Not to Engage in Certain Activities

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

c. Prohibition of Conflicting Activities

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

d. Strict Duty to Disclose Conflicting Activities

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

20 Confidentiality

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

21 Liability of the Consultant

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

22 Insurance to be taken out by the Consultant

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

23 Accounting, Inspection and Auditing

23.1 The Consultant shall keep and shall make all reasonable effort to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.

23.2. The Consultant shall permit and shall cause its Sub-consultants to permit, the persons appointed to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the HOSPITAL if requested by the hospital. The Consultant's attention is drawn to the fact that that acts intended to materially impede the exercise of the Hospital's

inspection and audit rights provided t constitute a prohibited practice subject to contract termination (as well as to a determination of in eligibility under the Hospital 's prevailing sanctions procedures.)

24 Reporting Obligations

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

25 Proprietary Rights of the Procuring Entity in Reports and Records

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

26 Equipment, Vehicles and Materials

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

29. Dispute Resolution

Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration.

Reference of general conditions of contract	Special condition of contract
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3.7 Delivery of Services	In accordance with the terms specified by The Mater Hospital in the Terms of Reference
3.11 Termination of the contract	This Contract may be terminated by either Party as per provisions in the General Conditions of Contract.
3.16 Applicable law	The Laws of Kenya
3.18 Notices pursuant to the contract	Addressed to THE CHIEF EXECUTIVE OFFICER MATER MISERICORDIAE HOSPITAL P. O. BOX 30325 - 00100, <u>NAIROBI.</u> Email : ceo@materkenya.com

SECTION IV- STANDARD FORMS

Notes on the standard Forms

1. **Confidential Business Questionnaire Form -** This form must be completed by the tenderer and submitted with the tender documents.
2. **Bidders Declaration Pact-** This form must be completed by the tenderer and submitted with the tender documents.
3. **Integrity Pact -** This form must be completed by the tenderer and submitted with the tender documents.

Confidential Business Questionnaire

You are requested to give the particular indicated in Part 1 and either Part 2(a), 2(b), or 2(c)

PART 1. Whichever applies to your type of business

You are advised that it is a serious offence to give false information on this Form.

Part _____ General:

Business Name

Location of business premises

Plot No. Street/Road

Postal Address Tel. No.

Fax Email

Nature of business

Registration Certificate No.

Maximum value of business which you can handle at any one time

Kes.. ..

Name of your bankers Branch

PART 2(a) – Sole Proprietor:

Your name in full,Age

Nationality Country of origin

Citizenship details.....

PART 2(B) – Partnership

Give details of partners as follows

	Name	Nationality	Citizenship Details	Shares
1.				
2.				
3.				
4.				
5.				

PART 2(C) – Registered Company:

Private or public

State the nominal and issued capital of the company –

Nominal Kes... ..

Issued Kes.....

Give details of all directors as follows

	Name	Nationality	Citizenship Details	Shares
1.				
2.				
3.				
4.				
5.				

Date.....

Signature of Tenderer

(Authorized Signatory)

If a citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or Registration

BIDDER'S DECLARATION

We/I the undersigned, in the capacity of
..... for [Name of the
company/firm/individual] certify that I/We **are not in any of the following situations:**

- 1 Bankruptcy or the subject of proceedings for a declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of any other similar proceedings;
- 2 Payments to us have been suspended in accordance with the judgment of a court other than a judgment declaring bankruptcy and resulting, in accordance with our national laws, in the total or partial loss of the right to administer and dispose off our property;
- 3 Legal proceedings have been instituted against us involving an order suspending payments and which may result, in accordance with our national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of our property;
- 4 Being wound up, or our affairs are being administered by court, or have entered into an arrangement with creditors, or have suspended business activities or are subject to an injunction against running business by a court of law;
- 5 Have been convicted by a final judgment of any crime or offence concerning our/my professional conduct;
- 6 Guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or execution of a tender already awarded; and
- 7 In breach of contract on another contract with the Government of Kenya or other local or international contracting authority or foreign government.
- 8 Have been convicted of an offence concerning our/my professional conduct by a court of law, or found guilty of grave professional misconduct;
- 9 Have not fulfilled obligations relating to payments of taxes or statutory contributions.

If the bidder is in any of the above listed situations, kindly attach documents giving details of the situation.

Names in full: [.....]

Signature: [.....]

Duly authorized to sign this bid on behalf of (bidder's name):

[.....]

Place and date: [.....]

Stamp of the firm/company:

INTEGRITY PACT

Bidder's Oath to fulfill the Integrity Pact

Accepting that transparent business management and fair public administration are key to social development and national competitiveness, and in an effort to purge corruption and apply sanctions to corrupt businesses, and in full support of the worthy goals of this Integrity Pact, concerning the present tender for _____ all personnel of *(state the firm)* _____ and its sub-contractors and agents hereby agree that:

1. We shall not conduct any unethical business practices, such as bid-rigging for the sake of a particular bidder to win the bid, or price-fixing. If proven as a fact that we have engaged in bid-rigging for the sake of a particular bidder to win the bid, we shall accept to be prohibited from submitting bids placed by Mater Misericordiae Hospital (herein referred to as Mater Misericordiae Hospital) for a period of two (2) years. If proven that we have discussed with other bidders in a bid to fix a price, or rigged a bid for a particular bidder to win the bid, we shall accept the prohibition from submitting bids placed by Mater Misericordiae Hospital for a period of two (2) years. If any unethical behaviour is tantamount to a fraudulent practice, we accept that such a case may be handed over to the authorities for investigation and possible prosecution.
2. In the process of bidding, or concluding or execution of a contract, we shall not offer any bribe, gifts, entertainment or any other undue benefits directly or indirectly to related officials, and in case it is proved that we have violated any terms of this Integrity Pact in relation with a bid, or concluding or execution of a contract, or offered bribes for favors in a contract, to win a contract, or facilitate payment which should not have been forthcoming, we shall accept the prohibition from submitting a bid placed by Mater Misericordiae Hospital for two (2) years. If proven as a fact that we have offered bribes to Mater Misericordiae Hospital or related officials for favors regarding a bid or contract to a bidder or a winning bidder, or for the purpose of faulty execution of the objectives of a contract, we shall accept the prohibition from submitting bids placed by Mater Misericordiae Hospital for a period of two (2) years. If proven that we have offered bribes to Mater Misericordiae Hospital or related officials in relation to bidding, or concluding or execution of a contract, we shall accept the prohibition from submitting bids placed by Mater Misericordiae Hospital for a period of two (2) years.
3. In case it is proven that we have offered bribes to a related official or a Mater Misericordiae Hospital official regarding a bid, or concluding or execution of a contract, we shall accept the cancellation of the contract, and shall not file any civil, administrative or criminal appeals.
4. We shall make our best effort to institute a Company Code of Conduct that prohibits bribery, bid rigging/fixing or any other corrupt practices in business relations with officials and Mater Misericordiae

Hospital, and a company regulation that prohibits any retaliatory acts toward anyone reporting inside corruption.

5. In addition, I confirm on behalf of the bidder that the details included in the bidders profile and experience sheet and our quotation are correct to the best of my knowledge and belief. In addition, we authorize, Mater Misericordiae Hospital to seek information from any source to confirm our compliance with the requirements of this Integrity Pact.
6. The bidder authorizes Mater Misericordiae Hospital, to seek information from any source, including publication of the name of the bidder to confirm that the bidder is compliant with the requirements of this Integrity Pact.

We shall fulfill this Integrity Pact as a solemn oath made on the basis of mutual trust, and, if and when we win a bid, we shall sign and fulfill the above as a “Special Condition of Contract,” and not file any civil, administrative or criminal appeals regarding any of the above terms.

Dated: _____

Signed by: _____
(Chief Executive/Managing Director/ authorized signatory)

Full Name printed: _____

Stamp of the firm/company: