

MATER MISERICORDIAE HOSPITAL
TENDER DOCUMENT

FOR

**THE TENDER FOR SUPPLY & DELIVERY OF
PHARMACEUTICAL PRODUCTS**

Tender No: MMH/PMS/23/08

Closing Date: 31ST MARCH, 2023

Closing Time: 11.00 hours (EA Time)

MARCH 2023

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SECTION I: INVITATION FOR TENDER

DATE: 14TH MARCH 2023

TENDER REF. NO. MMH/PMS/23/08

TENDER NAME: SUPPLY AND DELIVERY OF PHARMACEUTICAL PRODUCTS

- 1.1 The Mater Misericordiae Hospital invites sealed bids from eligible firms for **Supply and Delivery of Pharmaceutical Products.**
- 1.2 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** to facilitate any further clarification or addendum.
- 1.3 Tenderers must make a non-refundable fee of **Kshs 3,000.00** via M-pesa (**Paybill 526000; Ac. No. "Your Company Name, MMH/PMS/23/08"**). The M-pesa payment message or an original receipt obtained from our Casualty cashier shall be printed and attached to the tender response document.
- 1.4 Upon payment of the Mpesa Amount, **bidders shall collect a flash disk** on which the price schedule is stored from Procurement Office. Contact Desmond on 0732163201/3024. **The tenderer shall attach the (1) Hardcopy of the price schedule as part of the tender response document and (2) attach the flash disk with two files of the filled-up Price Schedule - in MS Excel and PDF Adobe in the tender response documents.**
- 1.5 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.
- 1.6 The tenderer shall furnish, as part of its tender, a tender security of **Kshs. 200,000.00** from a reputable bank.
- 1.7 In addition, invited tenderers must provide the following requirements as highlighted in the Appendix to Instructions to Tenderers; (1) The Mandatory Requirements (2) Technical Requirements and Specifications (3) Price Schedule and (4) All other pertinent information.

1.8 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 Friday 31st March 2023 at 1100 hours (East Africa Time).** The Tender will be addressed to:

**THE CHIEF EXECUTIVE OFFICER
THE MATER MISERICORDIAE HOSPITAL
P. O. BOX 30325 - 00100,
NAIROBI.**

And dropped at the Tender Box located at the reception of the Administration Block, 3rd Floor

1.9 Tenders will be opened immediately thereafter from the tender box located at the Administration Block, 3rd Floor in the presence of the candidate’s representatives who choose to attend.

1.10 The Mater Hospital is a Corruption free environment. Any Pressure or attempt to influence the tender should be reported to the Chief Executive Officer.

SECTION II - INSTRUCTION TO TENDERERS

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1. Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall provide the Goods for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2 The Mater Hospital's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by The Mater Hospital to provide consulting Services for the preparation of the design, specifications, and other documents to be used for the procurement of the Goods under this Invitation for tenders.
- 2.1.4 Tenderers involved in the corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Cost of Tendering

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and The Mater Hospital, will in no case be responsible or liable for those costs. Regardless of the conduct or outcome of the tendering process
- 2.2.2 The price to be charged for the tender document shall not exceed Kshs.3,000/=

2.3 Contents of Tender Document

- 2.3.1 The tender documents comprise the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenderers.
- (i) Instructions to Tenderers
 - (ii) General Conditions of Contract
 - (iii) Special Conditions of Contract
 - (iv) Schedule of Requirements
 - (v) Details of The Cover
 - (vi) Form of Tender
 - (vii) Price Schedules
 - (viii) Contract Form
 - (ix) Confidential Business Questionnaire Form

- (x) Tender security Form
- (xi) Performance security Form
- (xii) The Company's Authorization Form
- (xiii) Declaration Form

2.3.2 The Tenderer is expected to examine all instructions, forms, terms and specification in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

2.4 Clarification of Tender Documents

2.4.1 A Candidate making inquiries of the tender documents may notify The Mater Hospital by email at The Mater Hospital's address indicated in the Invitation for tenders. The Mater Hospital will respond in writing to any request for clarification of the tender documents, which it receives not later than three (3) days prior to the deadline for the submission of the tenders, prescribed by The Mater Hospital. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all candidates who have received the tender documents.

2.4.2 The Mater Hospital shall reply to any clarifications sought by the tenderer within reasonable time of receiving the request to enable the tenderer to make timely submission of its tender.

2.4.3 Preference where allowed in the evaluation of tenders shall not exceed 15%

2.5 Amendment of Tender Documents

2.5.1 At any time prior to the deadline for submission of tenders, Mater Misericordiae Hospital, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing and addendum.

2.5.2 All prospective tenderers who have obtained the tender documents will be notified of the amendment by email and such amendment will be binding on them.

2.5.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, Mater Misericordiae Hospital, at its discretion, may extend the deadline for the submission of tenders.

2.6 Language of Tenders

- 2.6.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and The Mater Hospital, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.7. Documents Comprising the Tender

- 2.7.1 The tender prepared by the tenderer shall comprise the following components:
- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.10 below
 - (b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
 - (c) Tender security furnished in accordance with paragraph 2.12 (if applicable)
 - (d) Declaration Form.

2.8. Form of Tender

- 2.8.1 The tenderer shall complete the Tender Form and the Price Schedule furnished in the tender documents, indicating the Goods to be provided.

2.9. Tender Prices

- 2.9.1 The tenderer shall indicate on the form of tender and the appropriate Price Schedule the unit prices and total tender price of the Goods it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the Goods quoted including all customs duties and VAT and other taxes payable.
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the Term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.20.5

2.10. Tender Currencies

- 2.10.1 Prices shall be quoted in Kenya Shillings

2.11. Tenderers Eligibility and Qualifications

- 2.11.1 Pursuant to paragraph 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if it's tender is accepted.
- 2.11.2 The documentary evidence of the tenderer's qualifications to perform the contract if its tender is accepted shall establish to The Mater Hospital's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.12. Tender Security

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Appendix to Instructions to Tenderers.
- 2.12.2 The tender security shall not exceed 2 per cent of the tender price.
- 2.12.3 The tender security is required to protect The Mater Hospital against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7
- 2.12.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form
 - a) Cash.
 - b) A bank guarantees.
 - c) Such the guarantee approved by the Authority.
 - d) Letter of credit.
- 2.12.5 Any tender not secured in accordance with paragraph 2.12.1. and 2.12.3 shall be rejected by The Mater Hospitals non-responsive, pursuant to paragraph 2.20.5
- 2.12.6 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible after the expiry of the period of tender validity
- 2.12.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30
- 2.12.8 The tender security may be forfeited:
 - (a) if a tenderer withdraws its tender during the period of tender validity.
 - (b) in the case of a successful tenderer, if the tenderer fails:

- (i) to sign the contract in accordance with paragraph 2.29 or
 - (ii) to furnish performance security in accordance with paragraph 2.30.
- (c) If the tenderer reject correction of an arithmetic error in the tender.

2.13. Validity of Tenders

- 2.13.1 Tenders shall remain valid for 120 days after date of tender opening pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by The Mater Hospitals non-responsive.
- 2.13.2 In exceptional circumstances, The Mater Hospital may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer granting the request will not be required nor permitted to modify its tender.

2.14. Format and Signing of Tenders

- 2.14.2 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.15 Deadline for Submission of Tenders

- 2.15.1 Tenders must be received by The Mater Misericordiae Hospital not later than **8th December, 2022 at 11:00 A.M**
- 2.15.2 Mater Misericordiae Hospital may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.5.3 in which case all rights and obligations of Mater Misericordiae Hospital and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16 Modification and Withdrawal of Tenders

- 2.16.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification is communicated via **tenders@materkenya.com** 3 days prior to deadline prescribed for submission of tenders.
- 2.16.2 No tender may be modified after the deadline for submission of tenders.

2.16.3 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiry of the period of tender validity. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

2.17. Opening of Tenders

2.17.1 The tenderers' or their representatives are encouraged to witness the opening session, which shall be conducted on **8th December at 11:00 A.M**

2.17.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and such other details as Mater Misericordiae Hospital, at its discretion, may consider appropriate, will be announced at the opening.

2.17.3 Mater Misericordiae Hospital will prepare minutes of the tender opening, which will be submitted to tenderers that signed the tender opening register and will have made the request.

2.19 Clarification of Tenders

2.19.1 To assist in the examination, evaluation and comparison of tenders The Mater Hospital may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.19.2 Any effort by the tenderer to influence The Mater Hospital in The Mater Hospital's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.20 Preliminary Examination and Responsiveness

2.20.1 The Mater Hospital will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures, the amount in words will prevail

2.20.3 The Mater Hospital may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.20.4 Prior to the detailed evaluation, pursuant to paragraph 2.20, The Mater Hospital will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Mater Hospital's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.20.5 If a tender is not substantially responsive, it will be rejected by The Mater Hospital and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

2.21. Conversion to single currency

2.21.1 Where other currencies are used, The Mater Hospital will convert those currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

2.22. Evaluation and Comparison of Tenders

2.22.1 The Mater Hospital will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20

2.22.2 The Mater Hospital's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.3.

(a) operational plan proposed in the tender;

(b) deviations in payment schedule from that specified in the Special Conditions of Contract

2.22.3 Pursuant to paragraph 2.22.2. the following evaluation methods will be applied.

(a) Operational Plan

The Mater Hospital requires that the items under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than The Mater Hospital's required delivery time will be treated as non-responsive and rejected.

(b) Deviation in payment schedule

Tenderers shall state their tender price for the payment on schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Mater Hospital may consider the alternative payment schedule offered by the selected tenderer.

2.22.4 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

2.23. Contacting the Mater Hospital

2.23.1 Subject to paragraph 2.19 no tenderer shall contact The Mater Hospital on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence The Mater Hospital in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the Tenderers' tender.

2.24 Post-qualification

2.24.1 The Mater Hospital will verify and determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the tenderer financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to paragraph 2.11.2, as well as such other information as The Mater Hospital deems necessary and appropriate

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event The Mater Hospital will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

2.25 Award Criteria

2.25.1 Subject to paragraph 2.29 The Mater Hospital 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.

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

- (a) Necessary qualifications, capability experience, Goods, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) 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.
- (d) Shall not be debarred from participating in public procurement.

2.26. The Mater Hospital's Right to accept or Reject any or all Tenders

2.26.1 The Mater Hospital 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 thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for The Mater Hospital's action. If The Mater Hospital determines that non of the tenders is responsive, The Mater Hospital shall notify each tenderer who submitted a tender.

2.26.2 The Mater Hospital shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.26.3 A tenderer who gives false information in the tender document about qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future The Mater Hospital's procurement.

2.27 Notification of Award

2.27.1 Prior to the expiry of the period of tender validity, The Mater Hospital will notify the successful tenderer in writing that its tender has been accepted.

2.27.2 The notification of award will signify the formation of the contract subject to the signing of the contract between the tenderer and The Mater Hospital pursuant to clause 2.9. Simultaneously the other tenderers shall be notified that their tenders were not successful.

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29 The Mater Hospital will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

2.28 Signing of Contract

2.28.1 At the same time as The Mater Hospital notifies the successful tenderer that its tender has been accepted, The Mater Hospital will simultaneously inform the other tenderers that their tenders have not been successful.

2.28.2 After receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to The Mater Hospital.

2.28.3 The contract will be definitive upon its signature by the two parties.

2.28.4 The parties to the contract shall have it signed within 45 days from the date of notification of contract award unless there is an administrative review request.

2.29 Performance Security

2.29.1 The successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in a form acceptable to The Mater Hospital.

2.29.2 Failure by the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event The Mater Hospital may make the award to the next lowest evaluated tender or call for new tenders.

2.30 Corrupt or Fraudulent Practices

2.30.1 The Mater Hospital requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

2.30.2 The Mater Hospital will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question

2.30.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in The Mater Hospital Procurement.

2.31 APPENDIX TO INSTRUCTIONS TO TENDERERS

The following information for the Supply of Mater Heart-run Merchandise shall complement, supplement, or amend, the provisions on the 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.

(I) Provisions of Appendix to instructions to Tenderers

INSTRUCTION TO TENDER REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERERS
2.4	<ul style="list-style-type: none"> ▪ Candidate making inquiries of the tender documents may notify the Mater Hospital by email at email address indicated in the Invitation for tenders. ▪ The hospital will respond in writing to any request for clarification of the tender documents, which it receives not later than three days prior to the deadline for the submission of the tenders. ▪ The Mater Hospital shall reply to any clarifications sought by the tenderer by sending feedback to all the tenderers within reasonable time or by extending the closing date.
2.1	Method of tendering is Open Tender.
2.15	<ul style="list-style-type: none"> ▪ Tenderers should submit an Original and Copy of the tender in two separate envelopes labelled “Original” and “Copy” and they shall be enclosed in a main envelope that will be clearly labeled the Tender Number and Name, with the instructions “Do not open before 31st March 2023, 11.00am”. ▪ In the Original tender envelop, the tenderer shall attach the (1) Hardcopy of the price schedule as part of the tender response document and (2) attach the flash disk with two files of the filled-up Price Schedule - in MS Excel and PDF Adobe. It will be addressed to: THE CHIEF EXECUTIVE OFFICER THE MATER HOSPITAL P. O. BOX 30325 - 00100, NAIROBI. <p>Failure to Meet this requirement will Lead to Automatic Disqualification.</p>
2.21	Currency to be used is Kenya Shillings

2.20 –22	<p style="text-align: center;">I. PRELIMINARY EVALUATION</p> <p>The tenderer must be eligible as required below and hence submit the following Mandatory documents;</p> <p>CONDITIONS TO BE MET BY THE BIDDER</p> <ol style="list-style-type: none"> 1. M-pesa payment message or an original receipt obtained from our Casualty cashier after payment of the Kes. 3,000. 2. CR 12 document that is not older than one year old. 3. A valid copy of business Permit of respective County. 4. A copy of PIN Certificate. 5. A valid copy of Tax Compliance Certificate. 6. A copy of Certificate of Registration/Incorporation. 7. Tender security of Kes. 200,000. 8. Must submit a copy of the Certified Audited Accounts for the last two years. 9. A valid copy of Manufacturers authorization letter. 10. A valid copy of Distributorship or dealership license. 11. A valid copy of license from Pharmacy & Poisons Board. 12. Provide: A list of four corporate medical clients of the over the last three (3) years for Pharmaceutical items and attach recommendation letters for similar supplies. (Provide details and telephone numbers of contact persons for each provided client & due diligence will be conducted) 13. Company profile highlighting distribution methods, work plans, channels and compliance to regulations 14. Provide a signed written confirmation that the person signing the tender has the power of attorney; or provide a letter signed by a person with power of attorney granting power of Attorney to their representative to sign the tender documents. 15. Duly filled and signed Confidential Business Questionnaire 16. Duly filled and signed Bidder’s Declaration 17. Duly filled and signed Integrity Pact 18. Duly filled and signed Price Schedule and Schedule of Requirements in the (1) Hardcopy of the price schedule as part of the tender response document of the filled and (2) in the two flash disk files. <p>To qualify for technical evaluation stage, tenderers must meet 100% of the above technical requirement to proceed to financial evaluation (Price schedule form).</p>
2.22	TECHNICAL EVALUATION CRITERIA

	<p>II. TECHNICAL SPECIFICATIONS</p> <p>Tenderers shall be called to provide the following during the hospital’s evaluations.</p> <ol style="list-style-type: none"> 1. Provide a sample of each item for evaluation when called to deliver the sample. 2. Package must be intact and inform on Generic/chemical name of Pharmaceutical item in English. All medicine MUST be registered by the Pharmacy and Poisons Board <ol style="list-style-type: none"> 2) Country of origin 3) Pack size 4) Dosage form 5) Trade price 6) Recommended retail price 7) Name & address of manufacturer 8) Blister packs for tablets and capsules preferred <p>Where the dose form is tablet or capsule- this is not restrictive. It can either be a capsule or tablet</p> 3. Samples must have date of manufacture and expiry. 4. Provide an original brochure printed in English version for evaluation with detailed description of the essential technical and performance characteristics of the Pharmaceutical item with clear specifications and storage instructions. 5. Item packages must be intact and show quality certification from KEBS or a reputable quality certification body. 6. Proof of registration and retention of product by Pharmacy and Poisons Board. 7. Manufacturer’s license where applicable. 8. Compliance with approved Hospital’s technical specifications and quality standards. 	<p>Must comply 100%</p>
	<ol style="list-style-type: none"> 1. Due diligence undertaken will form part of the evaluation outcomes. 2. To qualify for financial evaluations, tenderers must meet 100% of the above technical evaluation criteria 	
2.22	<p>III. FINANCIAL EVALUATION</p> <p>Financial Evaluations:</p> <ol style="list-style-type: none"> 1. Attach your price in the format at the Price schedule and Schedule of Requirements in the hardcopy of tender response and the same un-altered information in the flash disk. <ul style="list-style-type: none"> • Negotiations may be held prior to award. 	

SECTION IV	The winning tenderer will be required to comply with the Special Conditions of Contract as highlighted in Section IV. The Performance Bond will be 10% of the tender price.
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SECTION III - GENERAL CONDITIONS OF CONTRACT

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GENERAL CONDITIONS OF CONTRACT

3.1. Definitions

3.1.1 In this Contract, the following terms shall be interpreted as indicated:

- (a) “The Contract” means the agreement entered into between The Mater Hospital and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (c) “The Goods” means Goods to be provided by the tenderer including any documents, which the tenderer is required to provide to The Mater Hospital under the Contract.
- (d) “The Mater Hospital” means the organization procuring the Goods under this Contract
- (e) “The Contractor” means the organization or firm providing the Goods under this Contract.
- (f) “GCC” means the General Conditions of Contract contained in this section.
- (g) “SCC” means the Special Conditions of Contract
- (h) “Day” means calendar day

3.2. Application

3.2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other part of the contract

3.3. Standards

3.3.1 The Goods provided under this Contract shall conform to the standards mentioned in the schedule of requirements.

3.4. Use of Contract Documents and Information

3.4.1 The Contractor shall not, without The Mater Hospital’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan,

drawing, pattern, sample, or information furnished by or on behalf of The Mater Hospital in connection therewith, to any person other than a person employed by the contractor in the performance of the Contract.

- 3.4.2 The Contractor shall not, without The Mater Hospital's prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.
- 3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of The Mater Hospital and shall be returned (all copies) to The Mater Hospital on completion of the contract's or performance under the Contract if so required by The Mater Hospital.

3.5. Patent Rights

- 3.5.1 The Contractor shall indemnify The Mater Hospital against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods under the contract or any part thereof.

3.6 Performance Security

- 3.6.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful tenderer shall furnish to The Mater Hospital the performance security where applicable in the amount specified in SCC
- 3.6.2 The proceeds of the performance security shall be payable to The Mater Hospitals compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 3.6.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to The Mater Hospital and shall be in the form of:
 - a) Cash.
 - b) A bank guarantee.
 - c) Such the guarantee approved by the Authority.
 - d) Letter of credit.
- 3.6.4 The performance security will be discharged by The Mater Hospital and returned to the Candidate not later than thirty (30) days following the date of completion of the Contractor's performance of obligations under the Contract, including any warranty obligations, under the Contract.

3.7. Delivery of Goods and Documents

- 3.7.1 Delivery of the Goods shall be made by the Contractor in accordance with the terms specified by The Mater Hospital in the schedule of requirements and the special conditions of contract

3.8. Payment

- 3.81. The method and conditions of payment to be made to the contractor under this Contract shall be specified in SCC
- 3.82. Payment shall be made promptly by The Mater Hospital, but in no case later than sixty (60) days after submission of an invoice or claim by the contractor

3.9. Prices

- 3.9.1 Prices charges by the contractor for Goods performed under the Contract shall not, with the exception of any price adjustments authorized in SCC vary from the prices quoted by the tenderer in its tender or in The Mater Hospital's request for tender validity extension the case may be. No variation in or modification to the terms of the contract shall be made except by written amendments signed by the parties.
- 3.9.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.9.3 Price variation requests shall be processed by The Mater Hospital within 30 days of receiving the request.

3.10. Assignment

- 3.10.1 The Contractor shall not assign, in whole or in part, its obligations to perform under this Contract, except with The Mater Hospital's prior written consent.

3.11. Termination for Default

- 3.11.1 The Mater Hospital may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Contractor terminate this Contract in whole or in part:
 - (a) if the Contractor fails to provide any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by The Mater Hospital.
 - (b) If the Contractor fails to perform any other obligation(s) under the Contract
 - (c) If the Contract in the judgment of The Mater Hospital has engaged in corrupt or fraudulent practices in competing for or in executing the contract

3.11.2 In the event The Mater Hospital terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those un-delivered and the Contractor shall be liable to The Mater Hospital for any excess costs for such similar Goods. However the contractor shall continue performance of the contract to extent not terminated.

3.12. Termination for Insolvency

3.12.1 The Mater Hospital may at any time terminate the contract by giving written notice to the Contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to The Mater Hospital.

3.13. Termination for Convenience

3.13.1 The Mater Hospital by written notice sent to the contractor, may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entities convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination The Mater Hospital may elect to cancel the Goods and pay to the contractor an agreed amount for partially completed Goods.

3.14 Resolution of Disputes

3.14.1 The Mater Hospital and the contractor shall make every effort to resolve amicably by direct informal negotiations and disagreement or disputes arising between them under or in connection with the contract

3.14.2 If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.15. Governing Language

3.15.1. The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

3.16. Applicable Law

3.16.1 The contract shall be interpreted in accordance with the laws of Kenya unless otherwise expressly specified in the SCC.

3.17 Force Majeure

3.17.1 The Contractor shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.18 Notices

3.18.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or Email and confirmed in writing to the other party's address specified in the SCC.

3.18.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

TABLE OF CLAUSES

SECTION IV – SPECIAL CONDITIONS OF CONTRACT

Reference of general conditions of contract	Special condition of contract
3.7 Delivery of Goods	In accordance with the terms specified by The Mater Hospital in the schedule of requirements and the special conditions of contract
3.11 Termination of the contract	The Mater Misericordiae Hospital may terminate the contract under default, insolvency or convenience.
3.8 Payment	As per contract terms and conditions
3.9 Prices	Contract price variations shall not be allowed for contracts. Price changes will lead to automatic re-tendering of the affected drugs to attain a new supply price from the lowest evaluated bidder.
3.6 Performance Bond	10% of total tender price
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 ; c.c. ceosecretary@materkenya.com

SECTION V - PRICE SCHEDULE & SCHEDULE OF REQUIREMENTS

NB. Bidders must quote for pharmaceutical products proposed for supply. The same price schedule will be submitted in a Flash Disk (in Ms Excel and PDF)

N.B See Price Schedule in Annex 1 attached

SECTION VI - STANDARD FORMS

Notes on the standard Forms

1. **Form of TENDER** - The form of Tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. **Price Schedule Form**- The price schedule form must similarly be completed and submitted with the tender.
3. **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents.
4. **Bidders Declaration Pact**- This form must be completed by the tenderer and submitted with the tender documents.
5. **Integrity Pact** - This form must be completed by the tenderer and submitted with the tender documents.
6. **Tender Security Form** - When required by the tender document the tenderer shall provide the tender security either in the form included hereinafter or in another format acceptable to The Mater Hospital.
7. **Performance security Form** - The performance security form should not be completed by the tenderer at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to The Mater Hospital.

FORM OF TENDER

To: Name and address of The Mater Hospital

Date _____

Tender No.
Tender Name

Gentlemen and/or Ladies:-

1. Having examined the Tender documents including Addenda No. (Insert numbers) the receipt of which is hereby duly acknowledged, we the undersigned, offer to provide Insurance Services under this tender in conformity with the said Tender document for the sum of

.....
.....[Total Tender amount in words and figures]

or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to provide the Insurance Cover Services in accordance with the conditions of the tender.

3. We agree to abide by this Tender for a period of[number] days from the date fixed for Tender opening of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

4. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract between us subject to the signing of the contract by both parties.

5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 2021

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of _____

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

Kshs.

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 Kshs..

Issued Kshs.....

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 the **bidder is not in any of the following
situations:**

- 1 Bankruptcy; are 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 Are 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 Are 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 Are in breach of contract on another contract with the Government of Kenya or other local or international contracting Organization 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 _____
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 The Mater Hospital Corporation of Kenya (herein referred to as The Mater 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 The Mater Hospital for a period of two (2) years. If any unethical behavior 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 The Mater Hospital for a period of two (2) years. If proven as a fact that we have offered bribes to The Mater Hospital or related officials for favours 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 The Mater Hospital for a period of two (2) years. If proven that we have offered bribes to The Mater 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 The Mater Hospital for a period of two (2) years.
 1. In case it is proven that we have offered bribes to a related official or a The Mater 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.

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

3. 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, The Mater Hospital to seek information from any source to confirm our compliance with the requirements of this Integrity Pact.

4. The bidder authorizes The Mater 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:

TENDER SECURITY FORM

Whereas [*name of Bidder*] (hereinafter called <the tenderer> has submitted its bid dated [*date of submission of bid*] for the supply of Mater Heart-run Merchandise 2022 (hereinafter called <the tender>?

KNOW ALL PEOPLE by these presents that WE [*name of bank*] of [*name of country*], having our registered office at [*name of The Mater Hospital*] (hereinafter called < The Mater Hospital> in the sum of [*state the amount*] for which payment well and truly to be made to the said The Mater Hospital, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this _____ day of _____ 20 _____

THE CONDITIONS of this obligation are:-

1. If the tenderer withdraws its tender during the period of tender validity specified by The Mater Hospital on the Form; or
2. If the tender, having been notified of the acceptance of its tender by The Mater Hospital during the period of tender validity

fails or refuses to execute the Contract Form, if required; or
fails or refuses to furnish the performance security, in accordance with the Instructions to tenders.

We undertake to pay to The Mater Hospital up to the above amount upon receipt of its first written demand, without The Mater Hospital having to substantiate its demand, provided that in its demand The Mater Hospital will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the conditions, specifying the occurred condition(s)

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above stated date.

[Authorized Signatories and official stamp of the Bank]

(Amend accordingly if provided by Insurance Company)

PERFORMANCE SECURITY FORM

To:
[Name of The Mater Hospital]

WHEREAS *[name of tenderer]*
(Hereinafter called “the tenderer”) has undertaken, in pursuance of Contract No. _____
_____ *[reference number of the contract]* dated _____ 20 _____
to supply
[description of insurance services] (Hereinafter called “the Contract”)

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for a sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the Contract

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of
[amount of the guarantee in words and figures], and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum of money within the limits of *[Amount of guarantee]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 20 _____

Signature and seal of the Guarantors

[Name of bank of financial institution]

[Address]

[Date]

(Amend accordingly if provided by Insurance Company)