KENYA MEDICAL SUPPLIES AUTHORITY YOUR PARTNER IN HEALTHCARE

Open International Tender (OIT)

Tender Document

For the

Supply of Family Planning Commodities

Invitation for Tender (IFT) Number: KEMSA/OIT03/2019-2020

FRAMEWORK CONTRACTING

Issued on 10th March 2020

Tender Closing date: 2nd April 2020
Time: -10.00 a.m. Local time

Invitation for Tenders (IFT)

Tender Reg. No. KEMSA/OIT03/2019-2020

For

SUPPLY OF FAMILY PLANNING COMMODITIES

Date: 10th March 2020

1. The Ministry of health through Kenya Medical Supplies Authority (KEMSA) has set aside funds for us in the procurement of Family Planning Commodities during the financial year 2019/2020. It is intended that part of the proceeds of the funds will be used to cover eligible payments under contracts for Supply of Family Planning Commodities.
2. KEMSA now invites sealed bids from eligible Suppliers for the Family Planning Commodities.
3. Bidding will be conducted through the procedures specified in the Public Procurement and Asset Disposal Act (PPADA) 2015 and Regulations and is open to all bidders.
4. Interested eligible Bidders may obtain further information and inspect the Bidding Documents at the Procurement office situated at:

   Kenya Medical Supplies Authority,

   Commercial Street

   P.O Box 47715-00100, Nairobi

   Tel No: +254 719033000/ +254 726618520/1

   Email: procure@kemsa.co.ke

   On normal working days on Monday to Friday between 0900hrs and 1600hrs except on Public Holidays or download from the PPIP Portal: www.tenders.go.ke or KEMSA website http://www.kemsa.co.ke /tenders/. Documents downloaded are free of charge and bidders are advised to register at the Procurement Office or via email at procure@kemsa.co.ke. (Refer to registration form in the tender document)
5. A complete set of tender Document(s) in English (hardcopy) may be purchased by eligible Bidders upon payment of a non-refundable fee of Kenya Shillings 1,000 (One thousand Kenya Shillings.) The method of payment is i) cash or by banker's cheque payable to "Kenya Medical Supplies Authority" and ii) By direct deposit to the following account;

Kenya Shillings Account
Account Name: *Kenya Medical Supplies Authority*
Bank Name and Branch*: Co-operative Bank of Kenya, Enterprise Road*
Account Number: *01141217405100*

6. Completed serialized/paginated bidding documents shall be submitted accompanied with a signed declaration of the number of pages. The documents will be an **original and a copy** in plain sealed envelopes clearly marked on top with the Tender Number and description and accompanied by a Bid security of an amount of **KES 1,113,600.00** or equivalent in a freely convertible currency from Commercial Banks or Insurance Companies (Approved by Public Procurement Regulatory Authority) and should be addressed to:

   The Chief Executive Officer
   Kenya Medical Supplies Authority
   Commercial Street
   P.O Box 47715-00100
   Nairobi

   And must be deposited in the Tender Box No. 1 marked GOK/ World Bank at the Reception on the Ground Floor KEMSA's Commercial Street Office in Nairobi on or before **Thursday, 2nd April, 2020.** Bulky tenders can be handed over to KEMSA **Procurement Director's** office for registration and safe keeping till the tender opening date.

7. Tenders will be opened promptly in public on **Thursday, 2nd April, 2020,** in the presence of Bidders' and/ or representatives who choose to attend the **opening at KEMSA tender opening Hall at 10.00 a.m Local time.**

8. Late bids, portion of bids, electronic bids, bids not received, bids not opened and not readout in public at the tender opening ceremony shall not be accepted for evaluation irrespective of circumstances.

REGISTRATION FORM FOR ONLINE BIDDERS

Tender No. **KEMSA/OIT03/2019-2020 FOR SUPPLY OF FAMILY PLANNING COMMODITIES**

NOTE: Please provide your details below for purposes of communication in case you download this tender document from Public Procurement Information Portal (PPIP) or KEMSA website.

Name of the firm:……..

Postal Address:……..

Telephone Contacts:……...……

Company email address:……..

Contact Person:……

Once completed please submit this form to the email below;

procure@kemsa.co.ke

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Instructions to Tenderers

A. INTRODUCTION

1. Scope of Tender

1.1 The Procuring entity, as specified in the Tender Data Sheet (TDS) and in the Special Conditions of Contract (SCC), invites tenders for the supply of Health Sector Goods as specified in the TDS and described in the Schedule of Requirements. The name and identification number of the Contract is provided in the TDS and in the SCC.

1.2 Throughout these tender documents, the terms "in writing" means communicated in written form (e.g. by mail, e-mail fax or telex) with proof of receipt and "day" means calendar day. Singular also means plural.

2. Source of Funds

2. KEMSA has set aside funds for the procurement of Pharmaceutical commodities named in the Bid Data Sheet during the Financial Year indicated in the Bid Data Sheet.

3. Fraud and Corruption

3.1 It is the Purchaser's policy to require that the purchaser's employees/ Tenderers / Suppliers /Contractors under the Purchaser's financed contracts, observe the highest standard of ethics during the procurement and execution of such. In pursuance of this policy, the Government of Kenya defines, for the purposes of this provision, the terms set forth below as follows:

(a) (i) "corrupt practice" means the offering, giving, receiving, or soliciting of anything or any advantage of value to influence the action of a public official in the procurement process or in execution; and

(a) (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a tender to the detriment of the Beneficiary it includes collusive practices among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial, noncompetitive levels and to deprive the Beneficiary of the benefits of free and open competition

and that the:

(b) Purchaser will reject a proposal for the award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the tender in question.

(c) purchaser will declare a firm ineligible, for a stated period of time, to be awarded a Purchaser's financed contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Purchaser's financed contract.

3.2 Furthermore, Tenderers shall be aware of the provision stated in sub-clause 23.1 (d) of the GCC.

3.3 In pursuance of the policy defined in ITT sub-clause 3.1, the Purchaser will cancel the portion of the fund allocated to a contract for Goods or Works if he at any time determines that corrupt or fraudulent practices were engaged in by the representatives of the Tenderer during the procurement or the execution of that contract, without the Tenderer having taken timely and appropriate action satisfactory to the Purchaser to remedy the situation.

4. Eligibility

4.1 Except as provided in ITT sub-clauses 4.2 and 4.3, this tender process is

a) Restricted to shortlisted tenderers as described in the **TDS**.

b) Candidates as defined in the Public Procurement and Asset Disposal Act 2015 and regulations.

Successful tenderers shall complete the supply of goods by intended completion date as specified in the **TDS**

4.2 Firms may be excluded from tendering if:

(a) a firm has been engaged by

i) the Purchaser or

ii) a Purchasing Agent that has been duly authorized to act on behalf of the Purchaser to provide consulting services for the preparation of the design, specifications and other documents to

be used for the procurement of the goods described in these tender documents.

4.3 A firm declared ineligible in accordance with ITT sub-clause 3.1 (c) shall be ineligible to tender for a contract awarded by the Purchaser during the period of time determined by the Purchaser.

4.4 Pursuant to ITT sub-clause 14.1, the Tenderer shall furnish, as part of its tender, documents establishing, to the Purchaser's satisfaction, the Tenderer's eligibility to tender.

4.5 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Purchaser as the Purchaser shall reasonably request.

5. Eligible Goods and Services

5.1 All goods to be supplied under the contract shall have their origin in eligible source countries.

5.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components

5.3 The origin of goods is distinct from the nationality of the tenderer.

6. Documents Establishing Eligibility of Goods and Services and Conformity to

6.1 Pursuant to ITT Clause 14, the Tenderer shall furnish, as part of its tender, documents establishing, to the Purchaser's satisfaction, the eligibility of the Health Sector Goods and services to be supplied under the contract.

Tender Documents

6.2 The documentary evidence of the eligibility of the Goods and services shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered that shall be confirmed by a Certificate of Origin, issued shortly before the time of shipment.

6.3 The documentary evidence of conformity of the Goods and services to the Tender Documents may be in the form of literature, drawings, and data and shall consist of:

(a) a detailed description of the essential technical and performance characteristics of the goods;

(b) an item-by-item commentary on the Purchaser's Technical Specifications demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of (even allegedly minor) deviations and exceptions to the provisions of the Technical Specifications;

(c) Any other procurement-specific documentation requirement as stated in the TDS.

6.4 Unless the **TDS** stipulates otherwise, the Goods to be supplied under the contract shall be registered with the relevant authority in the Purchaser's country. A Tenderer who has already registered its goods by the time of tendering shall submit a copy of the Registration Certificate with its tender.

6.5 For purposes of the commentary to be furnished pursuant to ITT clause 6.3 (b) above, the Tenderer shall note that standards as well as references to brand names designated by the Purchaser in its Technical Specifications are intended to be descriptive only and not restrictive. The Tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Purchaser's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

7. Qualifications of the Tenderer

7.1 The Tenderer shall provide documentary evidence to establish to the Purchaser's satisfaction that:

(a) The Tenderer has the financial and technical capability necessary to perform the contract, meets

the qualification criteria specified in the **TDS**, and has a successful performance history in accordance with criteria specified in the **TDS**. If a prequalification process has been undertaken for the contract, the Tenderer shall, as part of its tender, update any information submitted with its application for prequalification.

(b) in the case of a Tenderer offering to supply Health Sector Goods identified in the **TDS**, that the Tenderer did not manufacture or otherwise produce, the Tenderer has been duly authorized by the manufacturer or producer of such goods to supply the Goods in the Purchaser's country;

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

8. One Tender per Tenderer

8.1 A firm shall submit only one tender either individually or as a partner of a joint venture (other than in cases of alternatives pursuant to ITT clause 20). A firm that submits either individually or, as a member of a joint venture, more than one tender will cause all the proposals with the firm's participation to be disqualified.

9. Cost of Tendering

9.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the Purchaser will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

B. THE TENDER DOCUMENTS

10. Content of Tender Documents

10.1 The Tender Documents are those stated below and should be read in conjunction with any addendum issued in accordance with ITT clause 12.

Section I. Invitation For Tender (IFT)
Section II. Instructions to Tenderers (ITT)

Section III. Tender Data Sheet (**TDS**)
Section IV. General Conditions of Contract (GCC)
Section V. Special Conditions of Contract (**SCC**)
Section VI. Schedule of Requirements (**SOR**)
Section VII. Technical Specifications (TS)
Section VIII. Sample Forms (including Contract Agreement)

10.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications 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.

11. Clarification of Tender Documents

11.1 A Tenderer requiring any clarification of the Tender Documents shall contact the Purchaser in writing (for these ITT, the term "in writing" means communicated in written form (e.g. email, fax, telex) with proof of receipt at the entity's address as indicated in the **TDS**. The Purchaser will respond in writing to any request for clarification received no later than Seven (7) calendar days prior to the deadline of submission of tenders. The content of the Purchaser's response shall be sent to all prospective Tenderers including a description of the inquiry but without identifying the source of the inquiry.

11.2 The Procuring Entity shall reply to any clarifications sought by the tenderer within three (3) days of receiving the request to enable the timely submission of the tender.

12. Amendment of Tender Documents

12.1 At any time prior to the deadline for submission of tenders, the Purchaser may amend the Tender Documents by issuing addenda/amendments.

12.2 Any addendum/amendment thus issued shall be part of the Tender Document pursuant to ITT sub-clause 10.1 and shall be communicated in writing to all purchasers of the Tender Documents and will be binding on them. Tenderers are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained in the addendum/amendment will have been taken into account by the Tenderer in its tender.

12.3 To give Tenderers reasonable time in which to take addenda/amendments into account in preparing their

tenders, the Purchaser may extend, at its discretion, the deadline for submission of tenders, in which case, the Purchaser will notify all Tenderers in writing of the extended deadline

C. PREPARATION OF TENDERS

13. Language of Tender

13.1 The tender, as well as all correspondence and documents relating to the tender exchanged by the Tenderer and the Purchaser, shall be written in the language specified in the **TDS.** Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the **TDS,** in which case, for purposes of interpretation of the Tender, the translation shall govern.

14. Documents Constituting the Tender

14.1 The tender submitted by the Tenderer shall comprise the following:

(a) duly filled-in Tender Form and Price Schedule, in accordance with the forms indicated in Section VII;

(b) original form of tender security in accordance with the provisions of ITT sub-clause 19 (Tender Security);

(c) written power of attorney, authorizing the named signatory of the tender to commit the Tenderer and showing the authorizing as well as the authorized person's function in the firm, name and signature;

(d) in the absence of prequalification, documentary evidence in accordance with ITT sub-clause 4.4 establishing to the Purchaser's satisfaction the Tenderer's eligibility to tender including but not limited to documentary evidence that the Tenderer is legally incorporated as defined under ITT clause 4;

(e) documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITT clause 6 that the goods and ancillary services to be supplied by the Tenderer are eligible goods and services, pursuant to ITT clause 5, and that they conform to the Tender Documents;

(f) Documentary evidence establishing to the Purchaser's satisfaction, and in accordance with ITT clause 7 that the Tenderer is qualified to perform the contract if its tender is accepted. In the case where prequalification of Tenderers has been undertaken, and pursuant to ITT clause 7.1 (a) the Tenderer must provide evidence on any changes in the information submitted as the basis for prequalification, or if there has been no change at all in said information, a statement to this effect;

(g) Any other documentation as requested in the **TDS**.

15. Tender Form

15.1 The Tenderer shall complete the Tender Form and the Price Schedule furnished in the Tender Documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

16. Tender Prices

16.1 The Tenderer shall indicate in the Price Schedule, as applicable, the unit prices of each item, total prices of each item and lot, and the total tender price of the goods it proposes to supply under the contract.

The quoted prices should be typed in indelible ink and not hand written.

16.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.

16.3 Unless otherwise specified in the **TDS**, prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to ITT clause 29.

16.4 Pursuant to sub-clause 16.1 above, and if so indicated in the **TDS**, tenders are being invited for all items. Each item offered must comprise the full quantity required under each item.

17. Currencies of Tender

17.1 The Tenderer may express the tender price of the Health Sector Goods to be supplied entirely in any freely convertible currency. If the Tenderer wishes to be paid in a combination of different currencies, it must quote its prices accordingly, but no more than three foreign currencies may be used. Tenderers expressing their foreign currency requirements in any of the national currencies should do so in accordance with the provisions of the **TDS**.

18. Period of Validity of Tenders

18.1 Tenders shall remain valid for the period stipulated in the **TDS** after the date of tender submission specified in ITT clause 23. A tender valid for a shorter period shall be rejected by the Purchaser as non-responsive.

18.2 In exceptional circumstances, prior to expiry of the original tender validity period, the Purchaser may request that the Tenderers extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing. Except as provided in ITT clause 18.3, a Tenderer agreeing to the request will not be required or permitted to modify its tender, but will be required to extend the validity of its tender security for the period of the extension.

19. Tender Security

19.1 Unless otherwise specified in the **TDS**, the Tenderer shall furnish, as part of its tender, a tender security in the amount stipulated in the **TDS** in the currency of the Purchaser's country, or the equivalent amount in a freely convertible currency.

19.2 The tender security shall remain valid for a period of thirty (30) days beyond the validity period for the tender i.e. 150 days from the date of tender opening

19.3 The tender security shall be denominated in Kenya shillings or in a freely convertible currency and shall be, at the Tenderer's option, in one of the following forms:

(a) An unconditional Bank Guarantee or a bank draft issued by a Bank selected by the Tenderer, located in Kenya or abroad or a guarantee from an insurance company approved by the Public Procurement Oversight Authority in the form provided in TDS and valid for one hundred and fifty (150) days from the date of tender opening. The format of the Bank Guarantee shall be in accordance with the form of tender security included in Section VII.

19.4 Any tender not accompanied by an acceptable tender security shall be rejected by the Purchaser as nonresponsive. The tender security of a joint venture must be in the name of the joint venture submitting the tender.

19.5 The tender securities of unsuccessful Tenderers will be returned as promptly as possible, but not later than 30 days after the expiration of the period of tender validity.

19.6 The tender security of the successful Tenderer will be returned when the Tenderer has signed the Agreement and furnished the required performance security.

19.7 The tender security may be forfeited

(a) if the Tenderer withdraws its tender, except as provided in ITT sub-clauses 18.2 and 25.3; or

(b) if the Tenderer does not accept the correction of its tender price, pursuant to ITT clause 30; or

(c) in the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:

(i) sign the agreement, or

(ii) Furnish the required performance security.

20. Alternative Proposals by Tenderers

20.1 Unless specified in the **TDS**, alternative tenders shall not be accepted under any circumstance.

21. Format and Signing of Tender

21.1 The Tenderer shall prepare an original and the number of copies/sets of the tender indicated in the **TDS**, clearly marking each one as "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.

21.2 The original and all copies of the tender, each consisting of the documents listed in ITT sub-clause 14.1, shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorized to bind the Tenderer to the Contract. The authorization shall be indicated by written power of attorney, which pursuant to ITT sub-clause 14.1 (d) shall accompany the tender.

21.3 Any interlineations, erasure, or overwriting to correct errors made by the Tenderer shall be initialed by the person or persons signing the tender.

D. SUBMISSION OF TENDERS

22. Sealing and Marking of Tenders

22.1 The Tenderer shall enclose the original and each copy of the tender in accordance with ITT clause 20, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes containing the original and copies shall then be enclosed in one outer envelope.

The Tenderer shall seal and mark the original and copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL and "COPY OF TENDER". The Original and Copy must be properly bound for ease of handling.

22.2 The inner and outer envelopes shall:

(a) be addressed to the Procuring entity at the address given in the Invitation to Tender:

(b) Bear tender number and description in the Invitation for Tenders and the words, "DO NOT OPEN BEFORE DEADLINE FOR SUBMISSION

(c) The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".

22.3 If the outer envelope is not sealed and marked as required by ITT sub-clause 22.2, the Purchaser will assume no responsibility for the misplacement or premature opening of the tender.

22.4 The schedule of prices shall be typed and not handwritten. It shall contain no erasures or overwriting.

23. Deadline for Submission of Tenders

23.1 Tenders must be received by the Purchaser at the address specified in the **TDS** relating to ITT sub-clause 22.2 (b) no later than the time and date specified in the TDS **.**

23.2 The Purchaser may, at its discretion, extend the deadline for the submission of tenders by amending the Tender Documents in accordance with ITT sub-clause 12.3, in which case all rights and obligations of the Purchaser and Tenderers previously subject to the deadline will thereafter be subject to the deadline as extended.

24. Late Tenders

24.1 Any tender received by the Purchaser after the deadline for submission of tenders prescribed by the Purchaser in the **TDS** pursuant to ITT clause 23 will be rejected and returned unopened to the Tenderer.

25. Modification and Withdrawal of Tenders

25.1 The Tenderer may modify or withdraw its tender after submission, provided that written notice of the modification, or withdrawal of the tenders duly signed by an authorized representative, is received by the Purchaser prior to the deadline prescribed for submission of tenders.

25.2 The Tenderer's modification shall be prepared, sealed, marked, and dispatched as follows:

(a) The Tenderer shall provide an original and the number of copies specified in the **TDS** of any modifications to its tender, clearly identified as such, in two inner envelopes duly marked "TENDER MODIFICATION-ORIGINAL" and "TENDER MODIFICATION-COPIES." The inner envelopes shall be sealed in an outer envelope, which shall be duly marked "TENDER MODIFICATION."

(b) Other provisions concerning the marking and dispatch of tender modifications shall be in accordance with ITT sub-clauses 22.2 and 22.3.

25.3 A Tenderer wishing to withdraw its tender shall notify the Purchaser in writing prior to the deadline prescribed for tender submission. A withdrawal notice shall be received prior to the deadline for submission of tenders. The notice of withdrawal shall:

(a) be addressed to the Purchaser at the address named in the **TDS**,

(b) bear the specific identification of the Tender process (Contract name), the IFT title and IFT number, and the words "TENDER WITHDRAWAL NOTICE," and

(c) be accompanied by a written power of attorney authorizing the signatory of the withdrawal notice to withdraw the tender.

25.4 Tenders requested to be withdrawn in accordance with ITT sub-clause 25.3, shall be returned unopened to the Tenderers.

25.5 No tender may be withdrawn in the interval between the tender submission deadline and the expiration of the tender validity period specified in ITT clause 18. Withdrawal of a tender during this interval may result in the forfeiture of the Tenderer's tender security, pursuant to ITT sub-clause 19.7.

E. OPENING AND EVALUATION OF TENDERS

26. Tender Opening

26.1 The Purchaser will open all tenders, including withdrawal notices and modifications, in public, in the presence of Tenderers and/or representatives who choose to attend, at the time, on the date and at the place specified in the **TDS**. Tenderers and/or representatives shall sign a register as proof of their attendance.

26.2 Envelopes marked "WITHDRAWAL" shall be read out and the envelope with the corresponding tender shall not be opened but returned to the Tenderer. No tender withdrawal shall be permitted unless the corresponding withdrawal notice is read out at tender opening. Envelopes marked "MODIFICATION" shall be read out and opened with the corresponding tender.

26.3 Tenders shall be opened one at a time, reading out the name of the Tenderer and whether there is a modification; the tender price of each item, the presence or absence of a tender security; and any other such details as the Purchaser may consider appropriate. No tender shall be rejected at tender opening except for late tenders pursuant to sub-clause 24.1.

26.4 Tenders (and modifications sent pursuant to ITT sub-clause 25.2) that are not opened or read out at tender opening shall not be considered further for evaluation, irrespective of the circumstances.

26.5 The Purchaser will prepare minutes of the tender opening at the end of the opening session, including, as a minimum: the name of the Tenderer and whether there was a withdrawal or modification; the tender price; the presence or absence of a tender security;. The Tenderers and/or representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the content and effect of the minutes. The minutes should be distributed to all Tenderers who request them.

27. Clarification of Tenders

27.1 During evaluation of the tenders, the Purchaser 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.

28. Confidentiality

28.1 Information relating to the examination, clarification, evaluation, and comparison of tenders, and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the Notification of Contract award is made to all Tenderers.

28.2 Any effort by a Tenderer to influence the Purchaser in the Purchaser's tender evaluation, tender comparison, or contract award decisions may result in the rejection of the Tenderer's tender.

28.3 From the time of tender opening to the time of Contract award, if any Tenderer wishes to contact the Purchaser on any matter related to its tender, it should do so in writing.

29. Examination of Tenders and Determination of Responsiveness

29.1 The Purchaser 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. In the case where a prequalification process has been undertaken for the Contract(s) for which these tender documents have been issued, the Purchaser will ensure that each tender is from a prequalified Tenderer.

29.2 The Purchaser may waive any minor informality, nonconformity, or irregularity in a tender that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer.

29.3 Prior to the detailed evaluation, pursuant to ITT Clause 32, the Purchaser will determine whether each tender is of acceptable quality, is complete, and is substantially responsive to the tender documents. For purposes of this determination, a substantially responsive tender is one that conforms to all the terms, conditions, and specifications of the Tender Documents without material deviations, exceptions, objections, conditionality's or reservations. A material deviation, exception, objection, conditionality or reservation is one:

(i) that limits in any substantial way the scope, quality, or performance of the goods and/or related services;

(ii) that limits, in any substantial way that is inconsistent with the tender documents, the Purchaser's rights or

the successful Tenderer's obligations under the Contract;

and

(iii) The acceptance of which would unfairly affect the competitive position of other Tenderers who have submitted substantially responsive tenders.

29.4 If a tender is not substantially responsive, it will be rejected by the Purchaser and cannot subsequently be made responsive by the Tenderer by correction of the nonconformity. The Purchaser's determination of a tender's responsiveness is to be based on the contents of the tender itself, and any written clarification submitted by the Tenderer in accordance with ITT sub-clause 27.1.

30. Correction of Errors

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

31. Conversion to Single Currency

31.1 To facilitate evaluation and comparison, the Purchaser will convert all tender prices expressed in the various currencies in which they are payable to either:

(a) The currency of the Purchaser's country at the selling exchange rate established for similar transactions by the Central Bank or a commercial bank in the Purchaser's country.

31.2 The currency selected for converting tender prices to a common base for the purpose of evaluation, along with the source and date of the exchange rate, are specified in the **TDS**.

32. Evaluation and Comparison of Tenders

32.1 The Purchaser will evaluate and compare the tenders that have been determined to be substantially responsive, pursuant to ITT clause 29.

32.2 The comparison shall be between Prices indicated on the Price Schedule including all costs, taxes, insurance and delivery to the premises of the procuring entity (Delivered Duty Paid-DDP).

32.3The Purchaser's evaluation of a tender will take into account one or more of the following factors as specified in the **TDS**, and quantified in ITT sub-clause 32.5*:*

(i) delivery schedule offered in the tender;

(ii) Other specific criteria indicated in the **TDS** and/or in the Technical Specifications.

32.4 For factors retained in the **TDS** pursuant to ITT sub-clause 32.3, one or more of the following quantification methods will be applied, as detailed in the **TDS**:

(a) Delivery schedule.

(i) The Purchaser requires that the Health Sector Goods under these Tender Documents shall be delivered (shipped) at the time specified in the Schedule of Requirements.

or

(ii) The Health Sector Goods covered under these Tender Documents are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirements. No credit will be given to earlier deliveries, and tenderers offering delivery beyond this range may be treated as non-responsive.

or

(iii) The Health Sector Goods covered under this invitation are required to be delivered (shipped) in partial shipments, as specified in the Schedule of Requirements.

(b) Deviation in payment schedule.

(i) The **SCC** stipulates the payment schedule offered by the Purchaser.

(c) Past performance:

Tenderers need a satisfactory record of performance:

(i) Those who have previously been awarded contracts to supply similar commodities and failed to deliver as per the contract terms or delivered and commodities recalled for quality issues and failed to

replace the same shall be disqualified if designated for an award.

(ii) Those who are or have been seriously deficient in current or recent contract performance when the number of contracts and the extent of deficiencies each are considered (in the absence of evidence to the contrary or circumstances properly beyond their control) shall be presumed to be unable to meet this requirement and shall be disqualified if designated for a contract award.

(c) Other specific additional criteria to be considered in the evaluation and the evaluation method shall be detailed in the **TDS** and/or in the Technical Specifications.

32.6 Contacting the purchaser

(a) Subject to paragraph 28, no tenderer shall contact the purchaser on any matter relating to its tender from the time of tender opening to the time of contract award.

(b) Any effort by a tenderer to influence the purchaser in its decision on tender evaluation, tender comparison, or contract award shall result in the rejection of the tenderer 's tender

33. Preference

33.1 Preference where allowed in the evaluation of tenders shall not exceed 20%.

F. AWARD OF CONTRACT

34. Post qualification

34.1 In the absence of prequalification, the Purchaser will 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, in accordance with the criteria listed in ITT sub-clause 7.1 and any additional post qualification criteria stated in the **TDS**. If a prequalification process was undertaken for the Contract(s) for which these tender documents were issued, the Purchaser will

determine in the manner described above that no material changes have occurred after the prequalification that negatively affect the ability of the Tenderer that has submitted the lowest evaluated tender to perform the Contract.

34.2 The determination will evaluate the Tenderer's financial, technical, production capabilities and tenderer's past performance. It will be based on an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT sub-clause 7.1, as well as other information the Purchaser deems necessary and appropriate.

34.3 An affirmative post qualification determination will be a prerequisite for award of the contract to the lowest evaluated Tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Purchaser will proceed to the next-lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

35. Award Criteria

35.1 Pursuant to ITT clauses 32, 34 and 39, the Purchaser will award the Contract to the 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, pursuant to ITT clause 35

36. Purchaser's Right to Accept Any Tender and to Reject Any or All Tenders

36.1 The Purchaser reserves the right to accept or reject any tender, or to annul the Tender process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected Tenderer(s).

37. Purchaser's Right to Vary Quantities at Time of Award

37.1 The Purchaser reserves the right at the time of contract award or during the life of the contract to increase or decrease, by the percentage indicated in the **TDS**, the quantity of goods and services beyond that originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions, except the delivery schedule.

38. Notification of Award

38.1 Prior to the expiration of the period of tender validity, the Purchaser will notify the successful Tenderer in writing that its tender has been accepted, the receipt of which must be confirmed in writing.

38.2 At the same time as the successful tenderer is notified of the award, the unsuccessful tenderer(s) shall be notified that their tender(s) were unsuccessful.

38.3 A written contract will constitute the formation of the Contract, *subject to "no appeal"* from unsuccessful tenderers' within the period of fourteen (14) days from the date of Notification of Award.

38.4 Upon the successful Tenderer's furnishing of the signed Contract Form and performance security pursuant to ITT clause 39, the Purchaser will promptly release the tender security of each unsuccessful Tenderer(s), pursuant to ITT clause 19.

39. Signing of Contract

39.1 Promptly after the Purchaser notifies the successful Tenderer that its tender has been accepted, the Purchaser will; after fourteen days (14 days) but within twenty one days (21 days) invite the successful tenderer after complying with ITT clause 40.1 to sign a contract.

39.2 Within seven (7) days of the invitation to sign the contract, the successful Tenderer shall send authorized signatories to sign the contract.

40. Performance Security

40.1 Within twenty-one (21) days of the receipt of Notification of Award from the Purchaser, the successful Tenderer shall furnish the Performance Security in accordance with the Conditions of Contract, using the Performance Security Form provided in the Tender Documents or in another form acceptable to the Purchaser.

40.2 Failure of the successful Tenderer to comply with the requirement of ITT sub-clause 38.1 or ITT sub-clause 39.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Purchaser may make the award to the next-lowest evaluated tenderer or call for new tenders.

Section II. Tender Data Sheet

Tender Data Sheet

The following specific data for the goods to be procured shall complement, supplement or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions in the Tender Data Sheet (**TDS**) shall prevail over those in the ITT and MUST be substantiated at the time of Bid submission.

A. GENERAL

ITT 1.1	Name of Purchaser: **Kenya Medical Supplies Authority (KEMSA)** 1. Type of goods**: Family Planning Commodities** Name and identification number of the Contract: IFT No.: **KEMSA/OIT03/2019-2020**
ITT 4.1 & 5.1	Applicable Guidelines: Government of Kenya (GOK), The Public Procurement and Asset Disposal Act (PPADA) 2015 and Regulations
	The documentary evidence of the Bidders eligibility to tender shall include proof of tax compliance from the relevant tax authorities.
ITT 6.3 (c)	Documentation and sample requirements for eligibility of the offered Goods. In addition to the documents stated in Clause 6.2 and 6.3 (a) and (b), the following shall be included with the Tender: For each pharmaceutical product offered, documentary evidence demonstrating that such product has been manufactured in accordance with the latest publicly available monographs and that the finished product meets the standards as described in any of the following pharmacopoeia: a) I. International Pharmacopoeia II. British Pharmacopoeia III. United States Pharmacopeia IV. European Pharmacopoeia V. Manufacturers Specifications VI. Any other Pharmacopoeia recognized by the PPB **And** documentary evidence demonstrating that such product meets one of the above standards must be provided

	(a) The Tenderer is requested to provide, in support of their technical offer, a sample for tests for each of the items offered under separate cover at or before the tender closing date and time. The sample is to be clearly labeled with the tenderer's name, tender reference and identification of the product. The sample requested is to be submitted as per technical specification offered by the Tenderer and shall represent exactly the pharmaceutical product that is intended to be supplied in case of contract award. (e) If, for reasons other than the tender specific labeling requirements, the sample is not consistent with the required technical specifications then the offer for the particular item shall be rejected. (f) For quality assurance reasons, for each sample provided a protocol (certificate of analysis) of a product test conducted by the laboratory of the manufacturer has to be provided from the same production batch in case of award of contract.
ITT 6.4	Copy of the registration and or retention certificates from the Kenya Pharmacy and Poisons Board (PPB) concerning the offered Pharmaceuticals shall be provided.
ITT 7.1 (a)	Not applicable

B. THE TENDER DOCUMENTS

ITT 11.1	Purchaser's address: Kenya Medical Supplies Authority (KEMSA) Office address: The Chief Executive Officer Kenya Medical Supplies Authority (KEMSA) Commercial Street, Industrial Area Nairobi/Kenya Postal address: P.O. Box: 47715 00100 Nairobi Kenya Tel No: +254 719033000/ +254 726618520/1 E- mail procure@kemsa.co.ke For clarifications on the Tender document please contact : The Chief Executive Officer P. O. Box 47715 00100 Nairobi/Kenya Tel: +254 719033000/ +254 726618520/1 E- mail: procure@kemsa.co.ke

C. PREPARATION OF TENDERS

ITT 13.1	The language of all correspondence and documents related to the tender is English. Moreover, the key passages of all accompanying printed literature in any other language must be translated into English.
ITT 16.2	The trade term DDP shall include all costs including taxes, insurance and delivery to KEMSA.
ITT 16.3	Prices are fixed unless provisions of the PPADA, 2015 are met.
ITT 16.4	Tenders are being invited for individual contracts (one or more items). Tenderers shall quote 100% of the entire quantity for each item quoted, as per Purchaser's Price Schedule.

ITT 18.1	The tender validity period shall be120 days after the deadline for tender submission, as specified below in reference to ITT clause 23.
ITT 19.1	The amount of tender security required is **KES 1,113,600.00** or equivalent in a freely convertible currency.
ITT 19.2	Tender security must be valid thirty (30) days after the end of the tender validity period. i.e. one Hundred and Fifty (150) days from the date of tender opening.
ITT 19.3	Forms of Tender Security: a) Cash b) Bank Guarantee c) Insurance Company guarantee as recommended by the authority (PPRA) d) Letter of Credit e) Guarantee by a deposit taking Micro Finance Institution (SACCO society, Youth Enterprise Development Fund or Women Enterprise Fund
ITT 20.1	Alternative offers not allowed
ITT 21.1	Required number of copies of the tender: **1 original and 1 copy of the tender shall be submitted.**

D. SUBMISSION OF TENDERS

ITT 22.2 (b)	The address for tender submission is: Kenya Medical Supplies Authority Office address: Chief Executive Officer Kenya Medical Supplies Authority (KEMSA) Commercial Street, Industrial Area Nairobi/Kenya Postal address: P. O. Box 47715 00100 Nairobi/Kenya
ITT 22.2 (c) & (d)	See the above data for ITT 1.1 for the name of the Contract.

	The Invitation for Tenders title and number are: Supply of Pharmaceuticals IFT No.: **KEMSA/OIT03/2019-2020** See the below data for ITT sub-clause 23.1 for the deadline for tender submission.
ITT 23.1	See the above data for ITT sub-clause 22.2 (b) for the address and deadline for tender submission. Deadline for tender submission is: **10.00 A.M on Thursday, 2nd April, 2020. (Local time)**
ITT 24.1	See the above data for ITT sub-clause 23.1 for the deadline for tender submission.
ITT 25.2 (a)	The required number of copies of tender modifications is the same as the number of copies of the original tender specified above in the data for ITT sub-clause 21.1.
ITT 25.3 (a)	See the above data for ITT Paragraph 22.2 (b) for the address to use for submission of a tender withdrawal notice.

E. TENDER OPENING AND EVALUATION

ITT 26.1	Time, date, and place for tender opening are: **10:00 am on Thursday, 2nd April, 2020. (Local time)** At : Kenya Medical Supplies Authority (KEMSA) Commercial Street, Industrial Area Nairobi/Kenya
ITT 31.2	The currency chosen for the purpose of converting to a common currency is Kenya Shillings (KES) The source of exchange rate is the Central Bank of Kenya, Nairobi The date of exchange rate determination is **the selling rate on the day of tender opening**
ITT 32.5 (b) (ii)	The Purchaser will not accept deviations from the payment schedule as stipulated in the **SCC**.
ITT 32.5 (d)	Evaluation criteria for items Tenderers shall bid for one or more items in the Price Schedule. Bids will be evaluated item by item: (a) Tenderers shall quote for one, more or all items and the entire quantity for each item quoted, as per Purchaser's

	Price Schedule; and (b) The items offered as per Purchaser's Price Schedule must be responsive to the Tender Document. Tendered items not complying with (a) and (b) above shall be treated as non-responsive. Tender evaluation and award will be made on individual item basis. Each bidder will be given one contract irrespective of the number of items awarded.
ITT 33. 1	A margin of preference will apply pursuant to the provisions of ITB clause 33 as detailed under Appendix 1.

F. AWARD OF CONTRACT

ITT 37.1	Percentage for increase or decrease of quantity of goods and services originally specified shall not exceed 15% during the life of the contract with an exception of frame work contracting
ITT 38.1	Prior to the expiration of the period of tender validity, the Purchaser will notify the successful Tenderer in writing. The tenderer will be required to confirm in writing the acceptance of the offer within fourteen (14) days.
ITT 39.1	Successful bidders will be required to enter into One (1) year contract at the end of the procurement process with tender quantities as specified in the schedule of requirements.
ITT 39.2	Within seven (7) days of the invitation to sign and date the contract, the successful Tenderer shall send an authorized signatory to sign the Contract at the purchaser's premises
ITT 40.1	Performance Security from a Bank shall be 10% of contract sum and valid for one year. **For foreign suppliers, the security shall be issued by a local corresponding bank or authorized financial institution recognized by the Central Bank of Kenya.**
ITT 40.2	Failure of the successful Tenderer to comply with the requirement of ITT sub-clause 38.1 or ITT sub-clause 39.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Purchaser may make the award to the next-lowest evaluated tenderer or call for new tenders.

Section III. General Conditions of Contract
for
Health Products and Technologies

Table of Clauses

General Conditions of Contract

1. Definitions

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

(a) "The Contract" means the agreement entered into between the Purchaser and the Supplier, 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 Supplier under the Contract for the full and proper performance of its contractual obligations.

(c) "Day" means calendar day.

(d) "Effective Date" means the date on which this Contract becomes effective pursuant to GCC Clause 6.2.

(e) "End User" means the organization(s) where the goods will be used, as named in the **SCC**.

(f) "GCC" means the General Conditions of Contract contained in this section.

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

(h) "The Purchaser" or the procuring entity means the organization that is purchasing the Goods, as named in the **SCC**.

(i) "The Purchaser's country" is the country named in the **SCC**.

(j) "Registration Certificate" means the certificate of registration or other documents in lieu thereof establishing that the Goods supplied under the Contract are registered for use in the Purchaser's country in accordance with the applicable law.

(k) "**SCC**" means the Special Conditions of Contract.

(l) "The Services" means those services ancillary to the supply of the Goods, such as transportation and

insurance, and any other incidental services, such as provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.

(m) "The Site," where applicable, means the place or places named in the **SCC**.

(n) "The Supplier / tenderer mean the individual or firm supplying the Goods and Services under this Contract, as named in the **SCC**.

2. Application

2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.

3. Country of Origin

3.1 All Goods and Services supplied under the Contract shall have their origin in the countries and territories eligible under the rules of the Government of Kenya, or as further elaborated in the **SCC**.

3.2 For purposes of this Clause, "origin" means the place where the Goods were mined, grown, or produced, or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.3 The origin of Goods and Services is distinct from the nationality of the Supplier.

4. Standards

4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.

5. Use of Contract Documents and Information;

5.1 The Supplier shall not, without the Purchaser'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 Purchaser in connection therewith, to any person other

than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.

5.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information enumerated in GCC Sub-Clause 5.1 except for purposes of performing the Contract.

5.3 Any document, other than the Contract itself, enumerated in GCC Sub-Clause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier's performance under the Contract if so required by the Purchaser.

6.Certification of Goods in Accordance with Laws of the Purchaser's Country

6.1 If required under the applicable law, Goods supplied under the Contract shall be registered for use in the Purchaser's country. The Purchaser undertakes to cooperate with the Supplier to facilitate registration of the Goods for use in the Purchaser's country.

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

6.3 If thirty (30) days, or such longer period specified in the **SCC**, elapse from the date of Contract signing and the Contract has not become effective pursuant to Sub-Clause 6.2 above, then either party may, by not less than seven (7) days' written notice to the other party, declare this Contract null and void. In such event, the Supplier's performance security shall be promptly returned.

7. Patent Rights

7.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Purchaser's country.

8. Performance Security

8.1 Within twenty one (21) days of receipt of the notification of Contract award, the successful Tenderer shall furnish to the Purchaser the performance security in the amount specified in the **SCC**.

8.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

8.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the Purchaser's country or abroad, acceptable to the Purchaser, in the format provided in the Tender Documents or another format acceptable to the Purchaser;

Or

(b) a guarantee from Insurance company approved by Public Procurement Regulatory Authority (PPRA) in the form provided in the tender documents

8.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the **SCC**.

9. Inspections and Tests

9.1 a) The Supplier shall demonstrate conformity to Kenya Standards or approved equivalents by evidence of Test report or Certificate from ISO/IEC 17025 accredited laboratory, recognized by the International Laboratory Accreditation Co-operation (ILAC) or preferable from any conformity body recognized by the International Federation of Inspection Agencies (IFIA) prior to shipment. Cost shall be born by the supplier.

b) Upon receipt of the pre-delivery samples or the consignment at the place of final destination, the Purchaser's representative shall inspect the samples or part of the Goods to ensure that they conform to the condition of the Contract and advise the Purchaser that the Goods were received in apparent good order. The Purchaser will issue an Acceptance Certificate to the Supplier in respect of such Goods (or part of Goods). The Acceptance Certificate shall

be issued within ten (10) days of receipt of the Goods or part of Goods at place of final destination.

9.2 Where the Supplier contests the validity of the rejection by the Purchaser or his representative, of any inspection as required by 9.1 above conducted before shipment or at ultimate destination, whether based on product or packing grounds, a sample drawn jointly by the Supplier and Purchaser or his or her representative and authenticated by both, will be forwarded for umpire analysis within four weeks of the time the Supplier contests to an independent Agency mutually agreed by the Purchaser and Supplier. The umpire's finding, which will be promptly obtained, will be final and binding on both parties. The cost of umpire analysis will be borne by the losing party.

10. Packing

10.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt, and precipitation during transit and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of appropriate handling facilities at all points in transit.

10.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC** or Technical Specifications, and in any subsequent instructions ordered by the Purchaser.

11. Delivery and Documents

11.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in the **SCC.**

11.2 For purposes of the Contract, "EXW", "CIP" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of *Incoterms* published by the International Chamber of Commerce, Paris.

11.3 Documents to be submitted by the Supplier are specified in the **SCC.** *Incoterms* provides a set of international rules for the interpretation of the more commonly used trade terms.

12. Insurance

12.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the **SCC.**

13. Transportation

13.1 Where the Supplier is required under Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Purchaser or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

13.2 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, customs clearance and transport of the Goods to the port of destination or such other named place of destination in the Purchaser's country, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

13.3 Where the Supplier is required under the Contact to transport the Goods to a specified place of destination within the Purchaser's country, defined as the Site, transport to such place of destination in the Purchaser's country, including customs clearance, insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

13.4 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, no restriction shall be placed on the choice of carrier. Where the Supplier is required under Contract (a) to deliver the Goods FOB or FCA, and (b) to arrange on behalf and at the expense of the Purchaser for international transportation on specified carriers or on national flag carriers of the Purchaser's country, the Supplier may arrange for such

transportation on alternative carriers if the specified or national flag carriers are not available to transport the Goods within the period(s) specified in the Contract.

14. Incidental Services

14.1 The Supplier shall provide such incidental services, if any, as are specified in the **SCC.**

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

15. Warranty

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

The Supplier further warrants that all Goods supplied under the Contract will have a remaining minimum of seventy five percent (75%) of the shelf life, unless otherwise specified in the **SCC;** have "overages" within the ranges set forth in the Technical Specifications, where applicable; are not subject to recall by the applicable regulatory authority due to unacceptable quality or an adverse drug reaction; and in every other respect will fully comply in all respects with the Technical Specifications and with the conditions laid down in the Contract.

15.2 The Purchaser shall have the right to make claims under the above warranty throughout the shelf life after the Goods have been delivered to the final destination indicated in the Contract. Upon receipt of a written notice from the Purchaser, the Supplier shall, with all reasonable speed, replace the defective Goods without cost to the Purchaser. The Supplier shall remove, at his own risk and cost, the defective Goods WITHIN fourteen (14) Days of the advise by the purchaser, failure to which storage charges will accrue at the prevailing market rates to be determined by the purchaser. The replacement of the Goods must be done within the time stipulated in the SCC.

15.3 In the event of a dispute by the Supplier, a counter-analysis will be carried out on the manufacturer's retained samples by an independent neutral laboratory agreed by both the Purchaser and the Supplier. If the

counter-analysis confirms the defect, the cost of such analysis will be borne by the Supplier as well as the replacement and disposal of the defective goods. In the event of the independent analysis confirming the quality of the product, the Purchaser will meet all costs for such analysis.

15.4 If, after being notified that the defect has been confirmed pursuant to GCC Sub-Clause 15.2 above, the Supplier fails to replace the defective Goods within the period specified in the **SCC,** the Purchaser may proceed to take such remedial action as may be necessary, including removal and disposal, at the Supplier's risk and expense and without prejudice to any other rights that the Purchaser may have against the Supplier under the Contract. The Purchaser will also be entitled to claim for storage in respect of the defective Goods for the period following notification and deduct the sum from payments due to the Supplier under this contract.

15.5 Recalls: In the event any of the Goods are recalled, the Supplier shall notify the Purchaser within fourteen (14) days, providing full details of the reason for the recall and promptly replace, at its own cost, the items covered by the recall with Goods that fully meet the requirements of the Technical Specification and arrange for collection or destruction of any defective Goods. If the Supplier fails to fulfill its recall obligation promptly, the Purchaser will, at the Supplier's expense, carry out the recall.

16. Payment

16.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in the **SCC.**

16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 11, and upon fulfillment of other obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Purchaser, but in no case later than Ninety (90 days after submission of an invoice or claim by the Supplier.

16.4 The currency or currencies in which payment is made to the Supplier under this Contract shall be specified in the **SCC** subject to the following general principle: Payment

will be made in the currency or currencies in which the payment has been requested in the Supplier's tender.

16.5 All payments shall be made in the currency or currencies specified in the **SCC** pursuant to GCC 16.4.

17. Prices

17.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its tender, with the exception of any price adjustments authorized in the **SCC** or in the Purchaser's request for tender validity extension, as the case may be.

18. Change Orders

18.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC Clause 31, make changes within the general scope of the Contract in any one or more of the following:

(a) specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;

(b) the method of shipment or packing;

(c) the place of delivery; and/or

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

18.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

19. Contract Amendments

19.1 Subject to GCC Clause 18, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

20. Assignment

20.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Purchaser's prior written consent.

21. Delays in the Supplier's Performance

21.1 Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the Schedule of Requirements.

21.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration, and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.

21.3 Except as provided under GCC Clause 24, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 21.2 without the application of liquidated damages.

22. Liquidated Damages

22.1 Subject to GCC Clause 24, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the **SCC.** Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 23.

23. Termination for Default

23.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:

(a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 21; or

(b) if the Goods do not meet the Technical Specifications stated in the Contract; or

(c) if the Supplier fails to provide any registration or other certificates in respect of the Goods within the time specified in the **SCC**.

(d) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause:

"corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in Contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract to the detriment of the Purchaser, and includes collusive practice among Tenderers (prior to or after tender submission) designed to establish tender prices at artificial noncompetitive levels and to deprive the Purchaser of the benefits of free and open competition.

(e) if the Supplier fails to perform any other obligation(s) under the Contract.

23.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 23.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

24. Force Majeure

24.1 Notwithstanding the provisions of GCC Clauses 21, 22, and 23, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

24.2 For purposes of this clause, "Force Majeure" means an event beyond the control of the Supplier and not involving the Supplier's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Purchaser in its sovereign

capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

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

25. Termination for Insolvency

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

26. Termination for Convenience

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

26.2 The Goods that are complete and ready for shipment within thirty (30) days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:

(a) to have any portion completed and delivered at the Contract terms and prices; and/or

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

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation,

then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

27.2.1 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

27.2.2 Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the **SCC.**

27.3 Notwithstanding any reference to arbitration herein,

(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and

(b) the Purchaser shall pay the Supplier any monies due the Supplier.

28. Limitation of Liability

28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 7,

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

(b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing Language

29.1 The Contract shall be written in the language specified in the **SCC.** Subject to GCC Clause 30, the version of the Contract written in the specified language shall govern its interpretation. All correspondence and other documents pertaining to the Contract that are

exchanged by the parties shall be written in the same language.

30. Applicable Law

30.1 The Contract shall be interpreted in accordance with the laws of the Purchaser's country, unless otherwise specified in the **SCC.**

31. Notices

31.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or by cable, telex, or facsimile and confirmed in writing to the other party's address specified in the **SCC.**

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

32. Taxes and Duties

32.1 A Supplier supplying Goods from abroad shall be entirely responsible for all taxes, stamp, duties, license fees, and other such levies imposed outside the Purchaser's country.

32.2 A Supplier supplying Goods offered locally shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

33. Inspections and Tests

33.1 The Procuring entity or its representative shall have the right to inspect and/or to test the Health Products to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.

33.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Health Products' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be provided to the inspectors at no charge to the Procuring entity.

33.3 Should any inspected or tested Health Products fail to conform to the Specifications, the Procuring entity may reject the Health Products, and the tenderer shall either replace the rejected Health Products or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

33.4 The Procuring entity's right to inspect, test and, where necessary, reject the Health Products after the Health Products' arrival

shall in no way be limited or waived by reason of the Health Products having previously been inspected, tested, and passed by the Procuring entity or its representative prior to the Health Products' delivery.

33.5 Nothing in paragraph 8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

Section IV.

Special Conditions of Contract
For Health Products and Technologies

Table of Clauses

Special Conditions of Contract (SCC)
For Health Products and Technologies

The following Special Conditions of Contract (**SCC**) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. The corresponding clause number of the GCC is indicated in parentheses	
1. Definitions (GCC Clause 1)	
GCC 1.1 (i)	The Purchaser is: **Kenya Medical Supplies Authority (KEMSA)**
GCC 1.1 (j)	The Purchaser's country is: **Kenya**
GCC 1.1 (n)	The Site is: **KEMSA, 13 Commercial Street, Industrial Area, Nairobi**
GCC 1.1 (o)	The Supplier is: ----------
4. Standards (GCC Clause 4)	
GCC 4	The Tenderer warrants that all Health Products supplied under the Contract will fully comply in all respects with the technical specifications and with the conditions laid down in the Contract.
6. Certification of Goods in Accordance with Laws of the Purchaser's Country (GCC Clause 6)	
GCC 6.1	Drugs shall be registered and retained with the Kenya Pharmacy and Poisons Board at the time of bid submission.
8. Performance Security (GCC Clause 8)	
GCC 8.1	The amount of the Performance security as a percentage of the Contract price shall not exceed 10%. The performance security shall be in the form of a **bank guarantee or irrevocable letter of credit** issued by a Bank.
GCC 8.3	**For foreign suppliers, the security shall be issued by a local corresponding bank or authorized financial institution recognized by the Central Bank of Kenya.**
9. Inspections and Tests (GCC Clause 9)	

GCC 9.1	a) The supplier may be requested to provide for batch by batch Certificates of Compliance by ISO/IEC 17025/ EN 45002 accredited test laboratories to prove the conformity to the technical specifications and applicable quality standards. The cost of such inspection shall be to the supplier's account. b) b) The Purchaser shall analyze all new brands of products, and products that have previously failed quality analysis tests, before confirming an order. The cost of analysis shall be borne by the Tenderer and shall be paid in full prior to analysis.
10. Packing (GCC Clause 10)	
GCC 10.2	Additional requirements for packing and transport are indicated in (a) Section VI, Technical Specifications and (b) General Packing Instructions
11. Delivery and Documents (GCC Clause 11)	
GCC 11.1 & 11.3	**For goods supplied from abroad under Incoterms DDP, KEMSA** Upon shipment, the Supplier shall notify the Purchaser and the insurance company in writing the full details of the shipment including Contract number, description of the Goods, quantity, date and place of shipment, mode of transportation, and estimated date of arrival at place of destination. In the event of Goods sent by airfreight, the Supplier shall notify the Purchaser a minimum of forty-eight (48) hours ahead of dispatch, the name of the carrier, the flight number, the expected time of arrival, and the waybill number. Under all transport modes, the Supplier shall send the following documents to the Purchaser, with a copy to the insurance company: (i) Three originals and two copies of the Supplier's invoice, showing Purchaser as Consignee; the Contract number, grant no., goods description, quantity, unit price, and

	total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal; (ii) one original and two copies of the negotiable, clean, on-board through MT Document marked "freight prepaid" and showing Purchaser as Consignee and Notify Party as stated in the Contract, with delivery through to final destination as per the Schedule of Requirements and two copies of non-negotiable bill of lading, or three copies of railway consignment note, road consignment note, truck or air waybill, or multi-modal transport document, marked "freight prepaid" and showing delivery through to final destination as per the Schedule of Requirements; (iii) four copies of the packing list identifying contents of each package; (iv) copy of the Insurance Certificate, showing the Purchaser as the Beneficiary; (v) one original of the manufacturer's or supplier's Warranty Certificate covering all items supplied; (vi) one original of the Supplier's Certificate of Origin covering all items supplied; (vii) each batch to be accompanied by Certificate of Analysis (CoA) stating quantitative assays, chemical analysis, sterility, pyrogen content, uniformity, microbial limit, and other tests as appropriate to the Goods origin; (viii) any other procurement-specific documents required for delivery/payment purposes; (ix) one original of the Certificate of Pharmaceutical Product as per the WHO's recommended template for each of the items supplied; (x) one original and one copy of a protocol (certificate of analysis) of a product test per batch conducted by the laboratory of the manufacturer . At arrival of the goods at port of clearance, the Supplier or its Shipping agent shall provide the Purchaser with: 1) Arrival notice and

	2) Delivery note. The above documents 1) and 2) shall be received by the Purchaser immediately after arrival of the Goods at port of clearance and, if not received, the Supplier will be responsible for any consequent expenses. **Note:** In the event that the documents presented by the Supplier are not in accordance with the Contract, payment will be made against issue of the Acceptance Certificate, to be issued in accordance with **SCC** 9 (GCC 9) above.
	For goods supplied from within the Purchaser's country under Incoterms EXW, delivered to named place of destination: The Supplier shall notify the Purchaser at least forty-eight (48) hours ahead of delivery of the goods in writing and deliver the following documents to the Purchaser: (i) two originals and two copies of the Supplier's invoice, showing Purchaser, the Contract number, grant number, goods description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal; (ii) two copies of delivery note, railway consignment note, road consignment note, truck or air waybill, or multimodal transport document showing Purchaser as consignee and delivery through to final destination as stated in the Contract; (iii) copy of the Insurance Certificate, showing the Purchaser as the Beneficiary; (iv) four copies of the packing list identifying contents of each package; (v) one original of the manufacturer's or Supplier's Warranty certificate covering all items supplied; (vi) one original of the Supplier's Certificate of Origin covering all items supplied; (vii) each batch to be accompanied by Certificate of Analysis (CoA) stating quantitative assays, chemical analysis, sterility, pyrogen content, uniformity, microbial limit, and other tests as appropriate to the Goods

	(viii) other procurement-specific documents required for delivery/payment purposes (a) (ix)
11. Clarification of tender documents (ITT Clause 11.1)	
ITT 11.1	Tenderers requesting for clarifications shall do it in writing to the purchaser seven (7) days before tender submission. The Purchaser will respond in writing to any request for clarification of the tender documents promptly within receipt of such request for clarification.
12. Insurance (GCC Clause 12)	

13. Delivery and Documents (GCC Clause 11)	
GCC 11.1 & 11.3	***For Goods supplied from abroad:*** (ii) Certificate of quality control test results in conformity with the World Health Organization "Certification Scheme on the Quality of Pharmaceutical Products Moving in International Trade" stating quantitative assays, chemical analysis, sterility, pyrogen content, uniformity, microbial limit, and other tests as appropriate to the Goods. (iii) Original copy of the certificate of weight issued by the port authority / licensed authority and six copies.

14. Incidental Services (GCC Clause 14)	
GCC 14.1	Incidental services to be provided: The Supplier shall provide all necessary licenses and permissions for use of the Goods in the Purchaser's country that may be required for the Goods. The cost shall be deemed included in the Contract Price.

15. Warranty (GCC Clause 15)	
GCC 15.4	The period for the replacement of defective goods is twelve (12) Weeks
16. Payment (GCC Clause 16)	
GCC 16.1 & 16.4	The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: (i) Payment shall be made after transfer of ownership of the Health Products. (ii) Ownership will be transferred after acceptance of quality of Health Products. (iii) The Procuring entity accepts Health Products subject to checks on quality. Invoices and delivery notes shall be stamped, "received but not checked" at the time of delivery. The Procuring entity will check deliveries as quickly as possible and notify the Tenderer of any defective Health Products or of short/excess deliveries. (iv) Payment shall be made by the Procuring Entity within ninety (90) days after submission of an invoice or claim by the Tenderer. (v) The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid prices were expressed in the Supplier's tender, subject to compliance with all aspects of the contract agreement, especially the delivery schedule.
	17.1 Prices (GCC Clause17.1)
GCC 17.1	(i) Prices quoted should include all costs of shipment and handling until the Health Products are received at KEMSA. (ii) To facilitate evaluation and comparison, the Procuring entity will convert all bid prices expressed in the amounts in the various currencies in which bid price is payable, to the Kenya shillings using the Central Bank of Kenya (CBK) Rate on the day the bids are opened.

	(iii) The Procuring entity reserves the right to award the contract in whole or in part without any change in the Unit price or other terms and conditions.
	21.1 Delays in supplier performance (GCC Clause 21.1)
GCC 21.1	**The supplier will be required to issue monthly delivery status reports during the life of the contract which will be used to assess his overall performance and consideration for subsequent tender awards.** Further to the penalties described under GC 21.1 the Purchaser will initiate debarment proceedings against suppliers who fail to comply with the contract conditions as specified under the General Conditions of Contract, Special Conditions and Technical Specifications.
	22. Liquidated Damages (GCC Clause 22)
GCC 22.1	The applicable rate is one-half (0.5) percent per week, the maximum rate is ten (10) percent of the Contract Price and this shall be deducted from the payment due to the supplier.
	23. Termination for default (GCC Clause 23)
GCC 23	Eligibility for commodity call downs will be subject to performance of preceding contract
	27. Settlement of Disputes (GCC Clause 27)
GCC 27.2.2	Clause 27.2.2 (a) shall be retained in the case of a Contract with a foreign Supplier and Clause 27.2.2 (b) shall be retained in the case of a Contract with a national of the Purchaser's country. The dispute resolution mechanism to be applied pursuant to GCC Sub-Clause 27.2.2 shall be as follows: *(i)* ***Contracts with foreign Supplier:***

	GCC 27.2.2 (a) –All disputes arising in connection with the present Contract shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said rules. (ii) ***Contracts with Supplier national of the Purchaser's country:*** In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser's country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Purchaser's country.
29. Governing Language (GCC Clause 29)	
GCC 29.1	English language
30. Applicable Law (GCC Clause 30)	
GCC 30.1	The Contract shall be interpreted in accordance with the laws of the Republic of Kenya
31. Notices (GCC Clause 31)	

GCC 31.1	**Procuring Entity's address** **Kenya Medical Supplies Authority (KEMSA** Office address: Chief Executive Officer Kenya Medical Supplies Authority (KEMSA) Commercial Street, Industrial Area Nairobi/Kenya Postal address: P. O. Box: 47715 00100 Nairobi/Kenya Tel No: +254 719033000/ +254 726618520/1E-Mail: procure@kemsa.co.ke ***Supplier's address:***
	33. Inspections and Tests (GCC Clause 33.1)
GCC 33.1	(i) Overseas Bidders shall ensure that all Health Products are inspected prior to shipment. Any charges incurred as a result of failure to comply with this requirement shall be borne by the tenderer. (ii) The Purchaser shall analyze all new brands of products, and products that have previously failed quality analysis tests, before confirming an order. The cost of analysis shall be borne by the Tenderer and shall be paid in full prior to analysis.
	• **33. Replacement of non-conforming Health Products (GCC Clause 33.3)**

GCC 33.3	If any item fails to comply with the technical specifications, the Procuring entity shall notify the supplier in writing. The supplier shall within fourteen (14) days, take steps to replace the product in question at its own cost with a fresh batch of acceptable product, or withdraw and give a full refund if the product has been taken off the market due to quality issues. If the product is not withdrawn within 14 days, KEMSA shall recall the product at the cost of the supplier.
	33. Product Recall (GCC Clause 33.3)
GCC 33.3	In the event any of the Health Products are recalled, because of problems with product quality or adverse reactions to the product, the supplier will be obligated to notify the Procuring entity within fourteen (14) days, providing full details about the reason leading to the recall, and shall take steps to replace the product in question at its own cost with a fresh batch of acceptable product, or withdraw and give a full refund if the product has been taken off the market due to safety problems
	33 Handling of rejected Health Products (GCC Clause 33.4)
GCC 33.4	(i) Rejected Health Products shall be collected promptly upon notification and not later than 7 days from date of notification, failure to which demurrage charges shall accrue at a rate of 2% of the total value. The commodities shall be disposed after 21 days at Tenderer's cost. (ii) The Tenderer shall advise The Procuring entity on whether to return rejected Health Products at Tenderer's cost, to arrange for collection from The Procuring entity, or to destroy in the presence of the Tenderer's agent as witness, at Tenderer's cost
	33. Right to inspect Health Products after Receipt (GCC Clause 33.5)

GCC 33.5	The Procuring entity may undertake further quality control testing and may reject the whole consignment if the samples tested fail to meet the required standards

SECTION V

SPECIFICATIONS

1. General Technical Specifications

2. Technical Specifications

3. General Packing Instructions

General Technical Specifications

Health Products

These specifications describe the basic requirements for Health Products required. Bidders are requested to submit with their offers the detailed specifications and **Samples** for the products they intend to supply.

The Bidders are requested to present information along with their offers indicating the shortest possible delivery period of each product.

Particulars

1. **Qualifications of Manufacturers**.

The Tenderer shall provide copies of all certificates and documents issued by the authorized National Regulatory authorities, that the Manufacturer of the Health Products and Technologies proposed is authorised to manufacture and sell these products.

2. Appraisal

A manufacturer, must provide evidence of certification by an internationally recognized authority (e.g. Food Drug Authority, WHO or similar organizations) or be subject, at the Manufacturer's expense, to inspection by national regulatory authorities.

3. Documentary Evidence

3.1 Bidders must provide the following documentary evidence of the Tenderer's qualifications to perform the Contract in support of their bid;

(i) That in the case of a bidder offering to supply Health Products under the Contract that the Tenderer manufactures or otherwise produces (using ingredients supplied by primary manufacturers) that the Bidder:

(a) Is incorporated in the country of manufacture of the Health Products

(b) Has been licensed by the regulatory authority in the country of manufacture to supply the Health Products

(c) Has received satisfactory GMP inspection certificate in line with the WHO certification scheme on pharmaceuticals moving in International Commerce. Where the Kenyan Regulatory Authority has inspected the site their findings shall supercede any other findings by other regulatory authorities.

(d) For Disinfectants, Topical Preparations and Antiseptics, bidders must submit valid certificates of quality issued by recognized authorities and the product must be listed with Pharmacy and Poisons Board

(ii) That, in the case of a Tenderer offering to supply Health Products under the Contract that the Tenderer does not manufacture or otherwise produce,

(a) That the Tenderer has been duly authorized by a manufacturer of the Health Products that meets the Criteria under (i) above to supply the Health Products in Kenya, and

(b) That the Tenderer has a Wholesaler Dealers License or Good Distribution Practice (GDP) certificate as applicable.

(c) In the case of Pharmaceutical and allied Health Products, that

(i) The Tenderer has a Superintendent Pharmacist with a current practicing license which should have QR codes. Please submit personal identification of the same.

(ii) That the Tenderer's premises have been registered by the National Regulatory Authority.

4. Certificates

4.1 All certificates granted to distributors and or manufacturers from the country of origin or/and recognized regulatory authorities should be valid and clear.

4.2 Good manufacturing practice should be issued by the national competent authority of the country of origin or a recognized regulatory authority as communicated in the WHO certification scheme on the quality of pharmaceutical products moving in the international commerce. Where the Kenyan Regulatory Authority has inspected the site their findings shall supercede any other findings by other regulatory authorities.

4.2.1 The certificate of Good manufacturing practice should indicate:

a) That the manufacturer has been approved and registered by the National Health Authority as a manufacturer of pharmaceutical drugs
b) The types of pharmaceutical dosage forms approved for manufacture
c) That the manufacturing plant in which the products are produced is subject to inspection at regular intervals

d) That the manufacture conforms to requirements of good manufacturing and quality control as recommended by WHO in respect of products to be sold or distributed in the country of origin or to be exported.

e) The date the certificate is issued and the period of its validity.

4.3 All certificates indicated above and all other technical documents required to qualify for the tender participation should be submitted together with the bid on or before the closing date. Any bid not accompanied by the certificates shall be rejected as non-responsive

5. Standards of Quality Assurance for Supply.

5.1 All products must:

a. Be manufactured in conformity with the latest edition of International Pharmacopoeia, British Pharmacopoeia, United States Pharmacopeia, European Pharmacopoeia, Manufacturers Specifications and Any other Pharmacopoeia recognized by the Pharmacy and Poisons Board(PPB).

If the product is not included in the specified Compendia, the Bidder upon being awarded the order must provide the reference standards and testing protocols to allow for Quality Control.

b. Be manufactured in accordance with current Good manufacturing Practices (GMP).

c. Be registered and retained by the Kenya Pharmacy & Poison's Board, and the retention status must be current.

d. Meet the requirements of manufacturing legislation and regulation of pharmaceutical and medical products in the country of Origin;

e. Be certified by a competent authority in the manufacturer's country according to resolution WHO 28-65B, of the World Health Organization "Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce"[1].

f. Conform to all the specifications contained herein; and

5.2 In case of new bidders to the procuring entity who succeed to win an item or more in price and other preliminary evaluation parameters, the procuring entity reserves the right to send samples to the National Quality Control laboratory or other competent laboratory for quality control test. In such cases, the bidder shall cover the expense up on request by the procuring entity.

5.3 The successful Bidder will be required to provide to the Procuring entity:

a) Certificates for each batch of drugs supplied.

b) With each consignment, a certificate of quality assurance test results in conformity with the WHO Certification Scheme concerning quantitative assay, chemical analysis, sterility, pyrogen content uniformity, microbial limit and other tests, as applicable to the product being supplied and Section C of these Specifications.

c) Assay methodology of any or all tests if requested.

d) Evidence of bio-availability and/or bio-equivalence for certain critical pharmaceuticals or vaccines upon request

e) Evidence of basis for expiration dating and other stability data concerning the commercial final package upon request.

f) Ensure that Health Products arrive at the KEMSA warehouse with a remaining shelf life of at least 75%.
g) On request, make available samples and studies showing bioavailability and stability, especially stability under conditions of high temperature and humidity.

5.4 Certificates of Analysis should:

(a) Be written/translated in English Language
(b) Bear the letter head of the manufacturer or accredited laboratory as stated on the Tenderer's quotation.
(c) Indicate the Pharmacopoeia Standard used for analysis
(d) Have the products generic (non-proprietary) name, strength and unit pack conspicuously displayed on the certificate.
(e) Have actual values of test results indicated against each test. A general indication of the word" complies" or "conforms" is not sufficient.

5.5 The Procuring entity shall reject drugs delivered without a VALID analysis certificates as described in 4.1 (e) and 4.3 above.

The analysis of tablets and capsules must include dissolution test if the test is specified in any of either International Pharmacopoeia, British Pharmacopoeia, United States Pharmacopeia ,European Pharmacopoeia, Manufacturers Specifications and Any other Pharmacopoeia recognized by the Pharmacy and Poisons Board.

5.6 The successful Bidder will also be required to provide the Procuring entity with access to its manufacturing facilities to inspect its facilities, quality control procedures for raw materials, test methods, in-process tests, and finished dosage forms.

6. Product information

6.1 The required packing standards and labeling must meet the latest requirements of the World Health Organization (WHO) good manufacturing practices (GMP) standards in all respects. (These standards are contained in "Good Practices in the Manufacture and Quality Control of Drugs.")

6.2 Only tropical formulations and packages should be supplied. All products supplied should remain stable within the product's shelf life. The Procuring entity reserves the right to reject Health Products that are not suitable for the tropical climate. The product should be stable at control room temperature up to 30˚C through out the shelf life. This needs to be substantiated with real time stability data.

6.3 Product Specifications indicate dosage form (e.g., tablet, liquid, injectable, emulsion, suspension, etc), and the drug content (exact number of mg or % v/v with acceptable range). The product should conform to standards specified in one of the following compendia: International Pharmacopoeia, British Pharmacopoeia, United States Pharmacopeia, European Pharmacopoeia, Manufacturers Specifications and Any other Pharmacopoeia recognized by the Pharmacy and Poisons Board.
In case the Pharmaceutical or Vaccine product is not included in the specified compendium, the Supplier, upon award of the contract, must provide the reference standards and testing protocols to allow for quality control testing.

6.4 The following information will be required, when applicable, for each product offered by the tenderer:

(i) Generic name or INN (International Non-propriety Name)
(ii) Presentation, strength, quantity in each container
(iii) Country of origin, name of manufacturer and address of the Manufacturing site.
(iv) Pharmacopoeia or other applicable compendia standards
(v) Shelf life

Failure to include any of this information may, at the discretion of the Procuring entity, disqualify the bid.

7. Packaging Specifications:

7.1 General

7.1.1 Not only the Pharmaceutical or Vaccine item, but also the packaging components (e.g., bottles and closures) should meet specifications suitable for use in a climate similar to that prevailing in the country of Procuring entity. All packaging must be properly sealed and tamper-proof.

7.1.2 The successful bidder shall provide such packing of the Health Products as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to

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

7.1.3 Whenever plastics are used as packing for I.V. Fluids

7.1.3.1 Type of plastics used should be clearly indicated in the offer and standards certificates relating to their properties.

7.1.3.2 Certificate of quality control for sterility, Pyrogenicity, Acute toxicity and physicochemical test.

7.1.4 Method of analysis of the same accompanied with the samples, if different method of analysis is used than indicates in USP or BP, should be submitted along with the offer

7.1.5 Light-sensitive pharmaceuticals must be packed in containers that allow maximum protection from light. Labels on the containers should bear " Protect from Light"

7.1.6 Packing should be suitable to resist heat & humidity at the port of embarkation for:-

- Humidity up to 12-100%
- Temperature up to 50^{o} C

7.1.7 All plastic and glass containers should be of Pharmaceutical Grade and should meet the parameters in BP or USP for containers.

8. Specific

The following are some of the packing conditions for the tender:-

8.1 Infusions

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

8.2 Ampoules and Vials

Ampoules must be packed in rigid paperboard boxes, strong enough to resist crushing during transportation in units of 5, 10 or similar multiples.

Vials must be packed in rigid paperboard boxes, strong enough to resist crushing during transportation in units of 5, 10 or similar multiples but should not exceed 50. The vials must be separated using separators,

.

8.3 Topical Preparations

Content with less than 50gm in leak-proof collapsible metallic or plastic tube, for volumes above 50gm in aluminum foil or plastic jars with close fitting caps or slip on lids

8.4 Elixir Oral Suspension & Syrup

Pilfer proof cap amber colored glass or non-transparent plastic bottles, with measuring spoon wherever applicable, packed in well-padded strong carton. Bottles of powder for oral suspension should have a clear marking to show the required volume. The cap and wad on every bottle should be watertight and leak proof.

8.5 Tablets, Capsules

Tablets should be packed in suitable polythene bags or blister pack laminated aluminum strips, packed in well closed and light resistant containers of appropriate size. The containers should be tamper-proof and sealed.

9. Packaging of Products

Items should be packaged as follows:

(i) 100 ml bottles, not more than 100 per carton
(ii) 200 ml bottles, not more than 50 per carton
(iii) 500 ml bottles, not more than 24 per carton
(iv) 1.0 litre bottles, not more than 12 per carton
(v) 2.5 litre bottles, not more than 6 per carton
(vi) 5.0 litre bottles, not more than 4 per carton
(vii) For ear- and eye drops a maximum of 24 should be packed in each carton and the box must be partitioned if the contents are more than 6.

Specifications for plastic containers used shall be as follows:

- 5 Litre Jerry can- High Density
- 2 Litre Jerry can– High Density
- 1 Litre jerry can- High Density

1. **Tertiary Packing**

10.1 Tertiary packing shall be undertaken in Heavy Duty five-ply non-recycled cartons **(175K/B/175K/C/175K)** duly labeled, marked and double strapped. The shapes of the

cartons must be consistent and complementary to allow stacking. Sample available at KEMSA Procurement Offices for viewing.

10.2 The cartons must have consistent dimensions of length, width and height. The cartons must contain polyethylene sheets inside to ensure that water does not seep through.

10.3 The size of the carton should be proportional to its content, with the addition of appropriate padding to prevent damage to the product during transport.

10.4 All carton flaps must be properly secured and sealed with special repackers gum paper tapes. Two strong plastic strappings should be tied around the carton properly bound by a machine and stapled tightly.

10.5 To facilitate manual loading and off-loading, the dimensions of each carton should not exceed 610mm x 460mm x 355 mm. The Gross weight of each parked carton should not exceed 35kg

11 Labeling Instructions.

11.1 The Label for each pharmaceutical and vaccine products shall meet the W210 GMP standard and include:

a) The INN or generic name prominently displayed and above the brand name, where a brand name has been given. Brand names should not be bolder or larger than the generic name.
b) The active ingredient "per unit, dose, tablet or capsule, etc."
c) The applicable pharmacopoeia standard
d) The Procuring entity's logo and code number if required in the special conditions of these Specifications.
e) Content per pack
f) Instructions for use
g) The phrase " Keep out of the reach of children"
h) Specific storage temperature requirements(Should state the actual temperatures)
i) Batch number
j) Date of manufacture and date of expiry (in clear language, not code)
k) Name and address of both the manufacturer and manufacturing site.
l) Any cautionary statement
m) All labeling shall be original and imprinted on the product package

11.2 All labeling and packaging inserts shall be in English. **THE SAMPLE INCLUDING LITERATURE (INSERTS) SHOULD BE SUBMITTED.**

11.3All outer cartons should be labeled as follows:

KEMSA
TENDER NO. KEMSA/OIT03/2019-2020
KENYA MEDICAL SUPPLIES AUTHORITY
COMMERCIAL STREET

P. O. BOX 47715-00100
NAIROBI

11.4 Pharmaceuticals and vaccines requiring refrigeration or freezing for stability must specifically indicate storage requirements on labels and containers and be shipped in special containers to ensure stability in transit from point of shipment to port of entry.

11.5The outer case or carton should also display the above information.

12 Case Identification.

12.1All cases should prominently indicate the following:

a) Procuring entity's Name and Address
b) The generic name of product
c) The dosage form (tablet, ampoule, syrup);
d) Date of manufacture and expiry
e) Batch number
f) Quantity per case
g) Package Number
h) Specific instructions for storage;
i) Name and address of manufacture;
j) Gross weight and net weight in kilograms
k) The legends: " Top, do not turn over " Handle with Care" …etc
l) Any additional cautionary statements.

12.2No case should contain pharmaceutical or vaccine products from more than one batch.

13 Unique Identifiers

13.1 The word "KEMSA" shall be extensively and conspicuously imprinted on the primary, secondary and tertiary packaging of products to be supplied to the procuring entity.

14 Bar coding Requirements For All KEMSA Medical Supplies (Application of International Barcoding Standards)

Section A

Primary packaging (Item level and Mono carton level)

a) GS1 Linear-'barcode Symbology,(EAN-13/UPC-A/EAN-8)'to encode GTIN (Global Trade Identification Number) within the barcode,

or

b) GS1 Data Matrix symbology to encode 14 digits product code (GTIN-14) within the Barcode and using (01) Application Identifier (To be used where printing space is extremely limited)

Examples of the same are reproduced at Annexure "A"

All other human readable Information on product packaging shall be as required under Existing Regulatory labeling & marking requirements

Section B.

Secondary Level Packaging

1. Product Identification Code (GTIN-14 of secondary pack) using Application Identifier (01)
2. Expiry date in YYMMDD format using Application Identifier (17)
3. Batch/Lot Number using Application Identifier (10)

GS1-128 barcode symbology to be used to generate the barcode, Examples of the same are reproduced at Annexure "B"

All other human readable Information on product packaging shall be as required under existing Regulatory labeling & marking requirements.

Section C

Tertiary level packaging (Pallet level packaging)

At Shipper/Pallet level packaging, a single label containing two barcodes needs to be generated and stickered. The barcode will encode the following information;

The first barcode will contain the 'following information.

1. Product Identification Code (GTIN-14 or shipper level pack) using Application Identifier (01)
2. Expiry Date in YYMMDD format using Application Identifier (17)
3. Batch/Lot Number using Application Identifier (10)

The second barcode will contain the following information;

1. SSCC (Serial Shipping Container Code) using Application Identifier (00)

Examples of the same are reproduced at annexure "C".

All other human readable Information on product packaging shall be as required under existing Regulatory labelling & marking requirements,

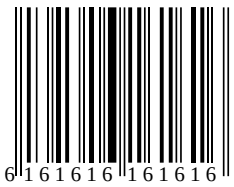
ANNEXURE "A"

Example of Primary Level Packaging

For generation of GS1 barcode at primary level packaging either of the mentioned symbologies can be used, following GS1 General Specifications

The following GS1 barcode symbologies are available as options:

1. The bar code sample of EAN-13 bar code symbology encoding GTIN -13

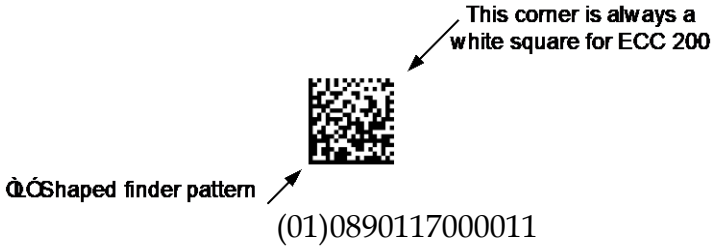


2. The bar code sample UPC – A bar code symbology encoding GTIN – 12

   Note: Both GTIN-13 and GTIN – 12 are in extensive use worldwide.

3. The bar code sample for EAN – 8 bar code symbology encoding GTIN – 8 (Used where printing space is a constraint)

4. The bar code sample for GS1 Data Matrix barcode symbology encoding GTIN – 14 (used where printing space is extremely limited)

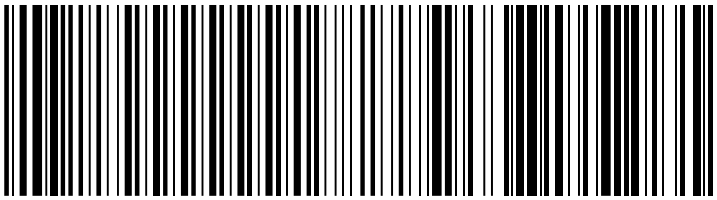


Annexure "B"

Example of Secondary Level Packaging

The bar code will encode:

1) Product identification (GTIN-14 of secondary pack) using application identifier (01)
2) Expiry Date in YYMMDD format using application identifier (17)
3) Batch/Lot Number using application identifier (10)



(00) 06161616161616 (17) 100410 (10) ab12345

Annexure "C"

Example of Tertiary Level Packaging (Shipper Level Packaging)

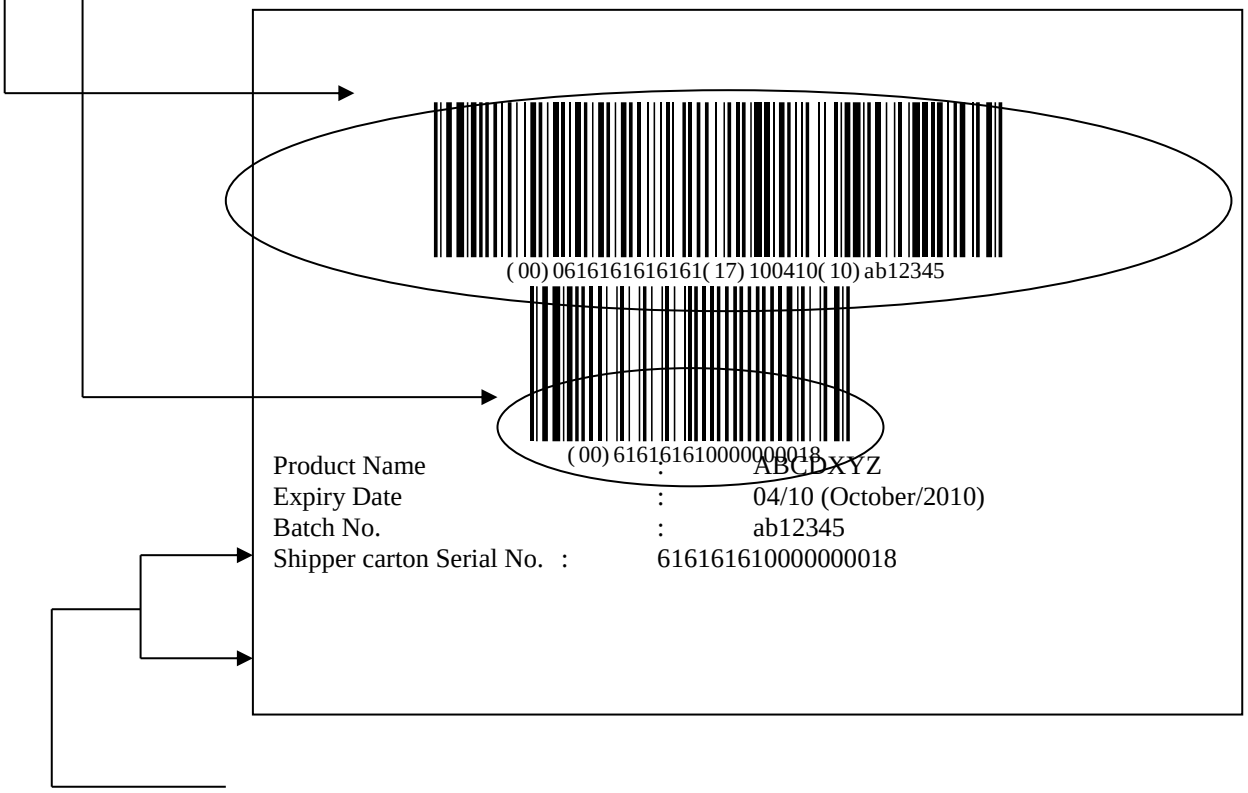
The first bar code will encode the following:

1) Product identification (GTIN – 14 of Shipper Pack) using application identifier (01)
2) Expiry Date in YYMMDD format using application identifier (17)
3) Batch/Lot Number using application identifier (10)

The second bar code will encode the following:

SSCC (Serial Shipping Container Code)

(Single Label for each Shipper Level Packaging)



Human Readable Information

Complete details on GS1 standards along with technical guidelines are available at www.gs1kenya.org or www.gs1.org

15 Tender Sample

15.1 A properly labeled sample of each item quoted must be delivered to Kenya Medical Supplies Authority on or before closing of the tender at 10.00 a.m. on **Thursday, 2nd April, 2010.** The sample must be of the required pack size as indicated in the schedule of requirements.

15.2 The sample including literature **(inserts)** should be submitted in their normal or usual commercial packing as registered by the Kenya Pharmacy and Poison's Board, and should be labeled in English. The sample must be a true representative of the product tendered for and remaining shelf life of at least 90 days from date of submission

15.3 Bidders who submit two different samples for any given item will have their samples disqualified.

16 Product Specifications

All specifications stated in the tender and confirmed in the contract must be adhered to, i.e. stated strength, pack size, manufacturer, labeling and markings, etc.

Section VI

Schedule of Requirements

Tender Registration No. KEMSA/OIT03/2019-2020

1. **Schedule of Requirements**
    - **Refer to No. 2 below for details**

2. **Price Schedules for Goods Offered**

	SUPPLY OF FAMILY PLANNING COMMODITIES	
	TENDER REGISTRATION NO KEMSA/OIT 03/2019-2020	P. O. BOX 47715, 00100, NAIROBI TEL: +254 719033000/ +254 726618520/1 **E-MAIL:** procure@kemsa.co.ke
	Date of Tender Notice: **10th March, 2020**	
	Closing date: **2nd April, 2020**	
	Time: 10.00 am	

NAME OF FIRM QUOTING:	
Address:	
Phone, fax, e-mail:	

Item No.	Item Code	Item Description	Pack size	Quantity	Special notes	Unit Price KEMSA Delivered	Net Total Price	Brand	Manufacturer	Country of Origin	Shelf Life	Delivery period
1	PM10LEV002	Levonorgestrel 0.75mg tablets (EC Pills)	Dose of 2's	139,000								
2	PM10UDC001	Intra-uterine devices(Cu-T)	Set	377,934								
3	PM10LEV007	Levonorgestrel 75mg implants (2-rod)	Set	89,000								
4	PM10DMP001	Depot-medroxyprogesterone Acetate 150mg/ml(DMPA)Injection	Kit (100 vials)	10,500								
Signature												

Date:		
Total Value Tendered: Currency		

DELIVERY SCHEDULE

Four (4) items will be procured under this tender as described above.

Full quantity of all items shall be delivered **between 1-16weeks from effective date of contract.**

Delivery Terms: DDP KEMSA Warehouse – Nairobi – Kenya

ITEM NO.1	SPECIFICATIONS FOR EMERGENCY CONTRACEPTIVE PILLS (EC PILLS)
Active ingredients/generic name and strength	Levonorgestrel 0.75mg per tablet
Pharmacopoeia standards (for preparation and container including the closures and labeling)	USP, PhEur BP or other standard pharmacopoeias as recognized by the Pharmacy & Poisons Board and Kenya Bureau of Standards. **Should be WHO pre-qualified as per the WHO pre-qualification of medicinal products (Reproductive Health)**
Additives	Various additives as required for the formulation of the preparation. Additives must not influence the medical effect of the drug nor be toxic in the used concentration or cause local irritations
Formulation, dosage form	Tablet containing Levonorgestrel 0.75mg.
Description	One dose containing 2 pills packed in a PVC/Aluminum blister pack
Period of action	Immediate; The formulation should release Levonorgestrel in sufficient amount in order to inhibit ovulation/form a mucus plug
Contraception efficacy	Not Applicable
Quality assurance requirement	Manufactured and tested in accordance with manufacturing instructions, testing standards, GCP/GMP (Good Clinical Practice/Good Manufacturing Practice) and should be certified/registered in the country of manufacture and in KENYA (PPB)
Shelf life	As per WHO prequalification, of which at least 80% is left at the time of arrival of the medicine at destination
Stability at room temperature	The product should be stable at tropical room temperature of up to 30±2°C and relative humidity of 65±5% as per the WHO requirements for **Zone IVa**, through its entire shelf life period
Special Labeling Instruction	Labeling of cycles and boxes shall be in accordance with instruction provided as follows; Each blister and the box should be labelled **'GOK-MOH NOT FOR SALE'**
Packing specifications	One box should contain a blister of 2 pills with 1 client leaflet and in English or Kiswahili

ITEM NO. 2	SPECIFICATIONS FOR INTRA-UTERINE (CONTRACEPTIVE) DEVICES (IUD/IUCD)
Active ingredient/generic name and strength	Copper
Pharmacopoeia standards (for preparation and container including the closures and labeling)	USP, PhEur, BP or other standard pharmacopoeias as recognized by the Pharmacy & Poisons Board and Kenya Bureau of Standards
Formulation, dosage form	T-shaped intra uterine device 32mm wide and 36mm long.
Description	The IUD consists of a T-shaped frame made from low-density polyethylene with barium sulphate added for X-ray opacity. 380mm^2 of thin copper wire is wound around the T-shaped device. A pigmented Polyethylene filament is tied in a knot through a small hole in the ball to provide two equal-length threads as a means to locate and remove the device
Period of action	Immediate and up to 12 years
Contraception efficacy	0.8 unintended pregnancies per 100 women-years
Quality assurance requirement	Manufactured and tested in accordance with manufacturing instructions and testing standards, GCP/GMP (Good Clinical Practice/Good Manufacturing Practice) and complies with specifications for medical devices. Should be certified/registered in the country of manufacture and in KENYA (Pharmacy & Poisons Board)
Shelf life and Insertion Life*	The insertion life is up to 12 years. Shelf life is 60 months, at least 80% of which should be left at the time of arrival of the product at destination
Stability at room temperature	The product should be stable at tropical room temperature of up to 30±2°C and relative humidity of 65±5% as per the WHO requirements for **Zone IVa**, through its entire shelf-life period
Special Labeling Instruction	Labeling shall be in accordance with instruction provided below. Each unit should be labelled **'GOK-MOH NOT FOR SALE'**
Packing specifications	Packaging should be as follows: Individually packaged with an inserter. Must be sterilized. Packed in 25 IUDs per inner box. Each inner box contains 25 clients' information leaflets in both English or Kiswahili and at least 3 physician instruction leaflets

* Insertion life: length of time a woman can use an IUD from the date of insertion. The calculation of the shelf life ends once an IUD is inserted

ITEM NO. 3	SPECIFICATIONS FOR LEVONORGESTREL IMPLANT 75MG
Active ingredient/generic name and strength	Each rod must contain 75mg of Levonorgestrel
Pharmacopoeia standards (for preparation and container including the closures and labeling)	USP, PhEur, BP or other standard pharmacopoeias as recognized by the Pharmacy & Poisons Board and Kenya Bureau of Standards. **Should be WHO pre-qualified as per the WHO pre-qualification of medicinal products (Reproductive Health)**
Additives	Various additives as required for the formulation of the preparation. Additives must not influence the medical effect of the drug nor be toxic in the used concentration or cause local irritations
Formulation, dosage form	The core of each rod is a mixture, half of Levonorgestrel; half of elastomer and the rod is sealed with polydimethylsiloxane adhesive and sterilized. Each rod must contain 75 mg of the progestin Levonorgestrel and should be 43mm long x 2.5mm diameter
Description	Each set is two flexible cylindrical implants, consisting of a dimethylsiloxane/methylvinylsiloxane copolymer core enclosed in thin- walled silicone tubing, and packed in a PE bag manufactured from spun- bonded PE film and a PET/PE film. A disposable trocar must be included for each set
Period of action	Up to 5 years; The calculated mean daily in vivo release rate of Levonorgestrel provided by the implants is about 100 □g/day at month 1 followed by a decline to about 40 □g/day at 12 months and to about 30 □g/day at 24 months with a stabilization thereafter at about 30 □g/day
Contraception efficacy	Unintended pregnancy rate of 0.05 per 100 women-years
Quality assurance requirement	The preparation must be sterile. Complies with; Bacterial Endotoxin tests (≤120EU/implant), residual Cyclohexane (≤3□g/implant), residual Ethylene Oxide (≤5ppm) and release rate in 24h (67-118□g). Manufactured and tested in accordance with manufacturing instructions, testing standards, GCP/GMP (Good Clinical Practice/Good Manufacturing Practice) and should be certified/registered in the country of manufacture and in KENYA (Pharmacy & Poisons Board)
Shelf life and Insertion Life*	As per WHO prequalification. At least 80% of the shelf life should be left at the time of arrival of the product at destination
Stability at room temperature	The product should be stable at tropical room temperature of up to 30±2°C and relative humidity of 65±5% as per the WHO requirements for **Zone IVa**, through its entire shelf life period
Special Labeling Instruction	Labeling shall be in accordance with instruction provided below. Each unit should be labelled **'GOK-MOH NOT FOR SALE'**

Packing specifications	The primary package may contain 1 set of implants, a disposable trocar, a client leaflet and card, and 1 physicians' insert containing insertion and removal instructions. Alternatively, it may contain 10 sets of implants, corresponding disposable trocars, 10 client leaflets and cards (in English) and 1 physicians' insert containing insertion and removal instructions

* Insertion life: length of time a woman can use an implant from the date of insertion. The calculation of the shelf life ends once an implant is inserted

ITEM NO. 4	**SPECIFICATIONS FOR IM DEPOT-MEDROXYPROGESTERONE ACETATE (DMPA)**
Active ingredient/generics name and strength	150mg of Medroxyprogesterone acetate
Pharmacopoeia standards (for preparation and container including the closures and labeling)	USP, PhEur, BP or other standard pharmacopoeias as recognized by the Pharmacy & Poisons Board and Kenya Bureau of Standards. **Should be WHO pre-qualified as per the WHO pre-qualification of medicinal products (Reproductive Health)**
Additives	Various additives as required for the formulation of the preparation. Additives must not influence the medical effect of the drug nor be toxic in the used concentration or cause local irritations
Formulation, dosage form	Each vial containing 1ml sterile aqueous injectable suspension for intramuscular (IM) depot injection
Description	1ml of sterile aqueous single suspension of 150mg of Medroxyprogesterone acetate in water for injection for IM use. Packed in an aseptically closed glass container (vial) with rubber stopper protected with Aluminum foil
Period of action	3 months; for this time period the serum level of Medroxyprogesterone acetate should be continuously above 0.1 microgram/L (0.025nMl/L) in order to inhibit ovulation
Contraception efficacy	6 unintended pregnancies per 100 women-years
Quality assurance requirement	The preparation must be sterile, complies with endotoxin tests, pH and osmotic pressure adjusted. Manufactured and tested in accordance with manufacturing instructions, testing standards, GCP/GMP (Good Clinical Practice/Good Manufacturing Practice) and should be certified/registered as a three-monthly injectable contraceptive in the country of manufacture and in KENYA (PPB)
	Any sediment formed during the storage must easily be re-dispersed through shaking. The suspension must be stable enough to allow measurement of proper dose. The particle size should be monitored during the production and appropriate for the kind of application

Shelf life	As per WHO prequalification, of which at least 80% is left at the time of arrival of the medicine at destination
Stability at room temperature	The product should be stable at tropical room temperature of up to 30±2°C and relative humidity of 65±5% as per the WHO requirements for **Zone IVa**, through its entire shelf life period
Special Labeling Instruction	Labeling of vial shall be in accordance with instruction provided below. Each unit should be labelled **'GOK-MOH NOT FOR SALE'**
Packing specifications	One primary box should contain 100 vials (packed individually or in boxes of 25s), 100 sterile auto-disable syringes, needles G22, 100 sterile alcohol swabs, 100 pairs of non-sterile gloves size 7.5, 1 safety box and 100 client leaflets in English or Kiswahili

Section VII.

Sample Forms

1. Section H. Form of Tender

(i) Form of Tender

Date: _____
Tender No.: **KEMSA/OIT03/2019-2020**
Tender Description: **Supply of Family Planning Commodities**

To: **Kenya Medical Supplies Authority**
P.O. Box 47715-00100
Nairobi.

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos.……
[Insert numbers]
the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver……..……
[Description of goods]
in conformity with the said tender documents for the sum (Word) 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 deliver the goods in accordance with the delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum equivalent to _____ Percent of the Contract Price for the due performance of the Contract, in the form prescribed by ……
[Procuring entity].

4. We agree to abide by this Tender for a period of 120 days from the date fixed for tender opening of the Instructions to Bidders, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

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

Dated this _____ day of _____ 20_____

_____ _____

[signature] [in the capacity of]
Duly authorized to sign tender for and on behalf of __

2. Tender Security Form

IFT No.: KEMSA/OIT 03/2019-2020

Supply of Family Planning Commodities

To: Kenya Medical Supplies Authority

WHEREAS *[insert: **name of Tenderer]*** (hereinafter called "the Tenderer") has submitted its tender dated *[insert: **date of tender]*** for the performance of the above-named Contract (hereinafter called "the Tender")

KNOW ALL PERSONS by these present that WE *[insert: **name of bank]*** of *[insert: **address of bank**]* (hereinafter called "the Bank") are bound unto *[insert: **name of Purchaser**]* (hereinafter called "the Purchaser") in the sum of: *[insert: **amount**],* for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this *[insert: **number]*** day of *[insert: **month**], [insert: **year]***.

THE CONDITIONS of this obligation are:

1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers or

2. If the tenderer, having been notified of the acceptance of his tender by the employer during the period of tender validity:

(a) Fails or refuses to execute the form of agreement in accordance with the instructions to tenderers if required or

(b) Fails or refuses to furnish the Performance Security, in accordance with instructions to tenderers

We undertake to pay to the Procuring Entity up to the above amount upon receipt of its first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions specifying the occurred condition or conditions.

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

_____

_____

Date: Signature of the Guarantor

_____ _____

(Witness) (Seal)

3. Insurance Tender Security Form

IFT No.: KEMSA/OIT 03/2019-2020

Supply of Pharmaceuticals

To: Kenya Medical Supplies Authority

WHEREAS *[insert: **name of Tenderer**]* (hereinafter called "the Tenderer") has submitted its tender dated *[insert: **date of tender**]* for the performance of the above-named Contract (hereinafter called "the Tender")

KNOW ALL PERSONS by these present that WE *[insert: **name of the insurance company**]* of *[insert: **address of insurance company**]* (hereinafter called "the Guarantor") are bound unto *[insert: **name of Purchaser**]* (hereinafter called "the Purchaser") in the sum of: *[insert: **amount**]*, for which payment well and truly to be made to the said Purchaser, the guarantor binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this *[insert: **number**]* day of *[insert: **month**], [insert: **year**]*.

THE CONDITIONS of this obligation are:

(a) If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers or

3. If the tenderer, having been notified of the acceptance of his tender by the employer during the period of tender validity:

(a) Fails or refuses to execute the form of agreement in accordance with the instructions to tenderers if required or

(b) Fails or refuses to furnish the Performance Security, in accordance with instructions to tenderers

We undertake to pay to the Procuring Entity up to the above amount upon receipt of its first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions specifying the occurred condition or conditions.

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

_____

Date:

_____

Signature of the Guarantor

_____

(Witness)

_____

(Seal)

4. Form of Contract Agreement

THIS CONTRACT AGREEMENT is made

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

BETWEEN

1 THIS AGREEMENT made the _____ day of _____ 20_____ between…….*[name of Procurement entity)* of……*[country of Procurement entity]* (hereinafter called "the Procuring entity") of the one part and *[insert: **name of Tenderer]***, a corporation incorporated under the laws of *[insert: **country of Tenderer**]* and having its principal place of business at *[insert: **address of Tenderer**]* (hereinafter called "the Supplier").

2 WHEREAS the Procuring entity invited tenders for certain goods and ancillary services, viz., *[insert: **brief description of goods and services]*** and has accepted a tender by the tenderer for the supply of those goods and services in the sum of *[insert: **contract price in words and figures]*** (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

2.4.1 In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.

2.4.2 The following documents shall constitute the Contract between the Purchaser and the Tenderer, and each shall be read and construed as an integral part of the Contract:

(a) This Contract Agreement

(b) Special Conditions of Contract

(c) General Conditions of Contract

(d) Technical Requirements (including Functional Requirements and Implementation Schedule)

(e) The Supplier's tender and original Price Schedules

(f) The Purchaser's Notification of Award

(g) The Supplier's Acceptance letter

(h) *[Add here: **any other documents]***

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

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

For and on behalf of the Procuring Entity

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

in the presence of _____

For and on behalf of the Tenderer

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

in the presence of _____

CONTRACT AGREEMENT
dated the *[insert:* ***number*** *]* day of *[insert:* ***month*** *], [insert:* ***year*** *]*

BETWEEN

[insert: ***name of Procuring Entity*** *],* "the Purchaser"

and

[insert: ***name of Tenderer*** *],* "the Supplier"

5. Performance Security Bank Guarantee (unconditional)

Tender No.: ----------
Supply of ----------

To: Kenya, Medical Supplies Authority (KEMSA).

Dear Sir or Madam:

We refer to the Notification letter ("the offer") issued on *[**insert: date**]* to (***name of the tenderer)*** by *[**Insert: Procuring Entity]* under reference NO(***Insert Tender no*****)** for the supply of *[**insert: a brief description of the Goods**]*. By this letter we, the undersigned, *[**insert: name of bank**]*, a bank (or company) organized under the laws of *[**insert: country of bank**]* and having its registered/principal office at *[**insert: address of bank**]*, (hereinafter, "the Bank") do hereby jointly and severally with the Tenderer irrevocably guarantee payment owed to you by the Tenderer, pursuant to the Contract, up to the sum of *[**insert: amount in numbers and words**]*. This guarantee shall be reduced or expire on (***insert expiry date***)

We undertake to make payment under this Letter of Guarantee upon receipt by us of your first written demand signed by your duly authorized officer declaring the Tenderer to be in default under the Contract and without cavil or argument any sum or sums within the above-named limits, without your need to prove or show grounds or reasons for your demand and without the right of the Tenderer to dispute or question such demand. Our liability under this Letter of Guarantee shall be to pay to you whichever is the lesser of the sum so requested or the amount then guaranteed under this Letter in respect of any demand duly made under this Letter prior to expiry of this Letter of Guarantee, without being entitled to inquire whether or not this payment is lawfully demanded.

This Letter of Guarantee shall be valid from the date of issue until the date of expiration of the guarantee, as governed by the Contract. Except for the documents herein specified, no other documents or other action shall be required, notwithstanding any applicable law or regulation. Our liability under this Letter of Guarantee shall become null and void immediately upon its expiry, whether it is returned or not, and no claim may be made under this Letter after such expiry or after the aggregate of the sums paid by us to you shall equal the sums guaranteed under this Letter, whichever is the earlier. All notices to be given under this Letter shall be given by registered (airmail) post to the addressee at the address herein set out or as otherwise advised by and between the parties hereto.

We hereby agree that any part of the Contract may be amended, renewed, extended, modified, compromised, released, or discharged by mutual agreement between you and the Tenderer, and this security may be exchanged or surrendered without in any way impairing or affecting our liabilities hereunder without notice to us and without the necessity for any additional endorsement, consent, or guarantee by us, provided, however, that the sum guaranteed shall not be increased or decreased.

No action, event, or condition that by any applicable law should operate to discharge us from liability hereunder shall have any effect, and we hereby waive any right we may have to apply such law, so that in all respects our liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

For and on behalf of the Bank

Signed: _____

Date: _____

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

Common Seal of the Bank

6. Manufacturer's Authorization Form

(Manufacturer's or Producer's letterhead)

To: **Kenya Medical Supplies Authority**

P.O. Box 47715 – 00100

Nairobi.

WHEREAS *[insert:* ***name of the manufacturer or producer*** *]* (hereinafter, "we" or "us") who are established and reputable manufacturers or producers of *[insert:* ***name and/or description of the Goods requiring this authorization*** *]* (hereinafter, "Goods") having production facilities at *[insert:* ***address of factory*** *]* do hereby authorize *[insert:* ***name and address of Tenderer*** *]* (hereinafter, the "Tenderer") to submit a tender, and subsequently negotiate and sign the Contract with you against IFT *No. KEMSA/OIT03/2019-2020 Supply of Family Planning Commodities including* the above Goods produced by us.

We hereby extend our full guarantee and warranty for the above specified Goods against these tender documents.

For and on behalf of the Manufacturer or Producer

Signed: _____

Date: _____

In the capacity of *[insert:* ***title, position, or other appropriate designation****]* and duly authorize to sign this Authorization on behalf of *[insert:* ***name of manufacturer or producer****]*

NOTE: Manufacturers Authorization must be ON LETTER HEAD and addressed to KEMSA and must be tender and item specific and signed by an authorized signatory. - MANDATORY

7. ANTI – CORRUPTION POLICY IN THE PROCUREMENT PROCESS

UNDERTAKING BY BIDDER ON ANTI – CORRUPTION POLICY / CODE OF CONDUCT AND COMPLIANCE PROGRAMME

The Governments of Kenya is committed to fighting corruption in all its forms and in all its institutions to ensure that all the government earned revenues are utilized prudently and for the purpose intended with a view to promoting economic development as the country work towards actualizing Vision 2030.

KEMSA being one of the government entities is committed to fighting any form of corruption in our organization to ensure that all the monies that the government entrust with us, is optimally and prudently utilized for the benefits of all the people we serve.

The following is a requirement that every Bidder wishing to do business with KEMSA must comply with:

(1) Each bidder must submit a statement, as part of the tender documents, in the format given and which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the bidding company and, where relevant, of its subsidiary in Kenya. If a tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.

(2) Bidders will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the bidder may cover the subcontractors and consortium partners in its own statement, provided the bidder assumes full responsibility.

(3) a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.

b) Each bidder will make full disclosure in the tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the tender and, if successful, the implementation of the contract.

c) The successful bidder will also make full disclosure [quarterly or semi- annually] of all payments to agents and other third parties during the execution of the contract.

d) Within six months of the completion of the performance of the contract, the successful bidder will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that are sufficient to establish the legitimacy of the payments made.

e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.

(4) Tenders which do not conform to these requirements shall not be considered.

(5) If the successful bidder fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:

a) Cancellation of the contract;

b) Liability for damages to the public authority and/or the unsuccessful competitors in the bidding possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated).

(6) Bidders shall make available, as part of their tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.

(7) The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract. Those charged with the oversight responsibility will have full access if need be to all documentation submitted by Bidders for this contract, and to which in turn all Bidders and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a bidder may be disclosed to another bidder or to the public).

1. MEMORANDUM (FORMAT)

(Clause 62 and 66 of Kenya Public Procurement and Asset Disposal Act (PPADA) 2015)

This company _____*(name of company)* has issued, for the purposes of this tender, a Compliance Program copy attached -which includes all reasonable steps necessary to assure that the No-bribery commitment given in this statement will be complied with by its managers and employees, as well as by all third parties working with this company on the public sector projects or contract including agents, consultants, consortium partners, subcontractors and suppliers')"

The company also confirms that it has not been debarred from participating in procurement proceedings.

Authorized Signature:_____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

8. Business Questionnaire

SUPPLIER BUSINESS DETAILS (fill in Block letters)		
Company name		
Company Post Office Address:		
Telephone Nos: Office No. ---------- ---------- Mobile No. ---------- ---------- _____ __	Fax No. (with entering your fax no. here you consent that this means of communication will be used for any communication during the tender process and that you will ensure that notice will be taken): _____ _____	e-Mail Address (with entering your e-Mail address here you consent that this means of communication will be used for any communication during the tender process and that you will ensure that notice will be taken): _____ _____

Company Registration Number:

1. Location of business premises ----------
2. Building name and number ----------
3. Floor Number ----------
4. Room number ----------
5. Plot Number ----------
6. VAT Certificate Number ----------
7. Local Authority License Number ---------- Expiry Date ----------
----
8. PIN certificate Number ----------
9. Website if any ----------

when submitting your bid, please ensure that you submit copies of the following documents;

1. **Copy of Certificate of incorporation**
2. **Copy of current Tax Compliance Certificate**
3. **Copy of Local Authority License**
4. **Copies of your business 3 years (three) Certified Audited Accounts**

Contact Name		Job Title
Telephone No. _____	Fax No. (with entering your fax no. here you consent that this means of communication will be used for any communication during the tender process and that you will ensure that notice will be taken): _____	e-Mail Address (with entering your e-Mail address here you consent that this means of communication will be used for any communication during the tender process and that you will ensure that notice will be taken): _____
Main business activity		
Please NOTE giving false information in this section will lead to outright Disqualification from tendering process**.**		
Type of organization (please tick as necessary) 1. Partnership 2. Co-operative 3. Private Ltd. 4. Public Company 5. Other.		
Type of premises (tick as necessary) 1. factory, 2. warehouse 3. Other.	Freehold Leasehold	
Names of executives		

Chairman ---------- ---------- Nationality ---------- - Shares held --------

Managing Director ---------- ---------- Nationality ---------- -- Shares held -------

Company Secretary ---------- Nationality ---------- - Shares held -------

Name of Directors

1. ---------- ---------- Nationality ---------- Shares held -------
2. ---------- ---------- -Nationality ---------- Shares held --------
3. ---------- Nationality ---------- Shares held -------
4. ---------- Nationality ---------- Shares held ------
5. ---------- ----------Nationality ---------- Shares held ------

Name and address of ultimate holding company and any subsidiary companies

Total no. of employees in group	No. of locations/premises in group

Member of a Trade Association?

Details of any Certification e.g. ISO 9000 (attach copies of valid certificates)

Name product(s) for which you act as an Authorized Dealer / Distributor and attach copies of valid certificates of authority.	
1.	5.
2.	6.
3.	7.
4.	8.
Bidders should only provide documentation for products they are offering to supply in the tender	

Bank References and other details	
A) Primary Bank (The Main Bank)	
1) Name: ---------- 2) Postal Address: ---------- 3) Telephone Land line number;---------- 4) Fax Number: ---------- 5) Email Address: ----------	
Name of the account: ----------	
Account number: ----------	Number of years operated: ----------

SECONDARY BANKERS (if applicable)	
Bank name and address: ----------	
Name of the account: ----------	
Account number: ----------	Years of operation ----------

Commercial References	
Provide names and contact details of four customers that have done business with you in the last three years.	
A) Trade References - customer 1	
Activity: ----------	Period of relationship: (Year) ----------
Contact name: ----------	Fax no. ----------
----------	Email address: ----------
Value of contract orders in USD----------	
Telephone No. ---------- Physical address; ----------	

B) Trade References - customer 2	
Activity: ----------	Period of relationship: (Year) ----------
Contact name: ---------- ----------	Fax no. ---------- Email address: ----------
Value of contract orders in USD----------	
Telephone No. ---------- Physical address; ----------	

Trade References - customer 3	
Business Activity: ---------- ----------	Period of relationship (year) ----------
	Fax no.----------

Contact name: ---------- ---------- ---------- ----------	Email address: ---------- ----------
Value of contract orders in Kenya Shillings KSHS ---------- ----------	
Telephone No. Mobile ---------- ---------- Telephone Number Land line ---------- ---------- Physical address: ---------- ----------	

Trade References - customer 4	
Business Activity: ---------- ---------- ---------- ----------	Period of relationship (year) ---------- ----------
Contact name: ---------- ---------- ---------- ----------	Fax no.---------- Email address: ---------- ----------

Value of contract orders in Kenya Shillings KSHS ----------
Telephone No. Mobile ---------- Telephone Number Land line ---------- Physical address: ----------

SUPPORT SERVICES AVAILABLE
What after sales / warranty / spare parts / support services / local agent / repair are available? (Please feel free to attach any further supporting information with this form)

DECLARATION BY THE APPLICANT	
Full names: ---------- Telephone Number mobile ---------- Telephone No. Land Line ----------	Job title of signatory:----------
Signature of the applicant ---------- ----------	Date of application: ---------- / /

Please affix company rubber stamp or seal

Section VIII

EVALUATION CRITERIA

A) PRELIMINARY EXAMINATION

Required documents

1. Tender documents must be paginated/serialized. All bidders are required to submit their documents paginated in a continuous ascending order from the first page to the last in this format; (i.e. 1, 2, 3…….. n where n is the last page) **(MANDATORY).**
2. Copy of Certificate of Incorporation/Registration **(MANDATORY).**
3. Copy of current Tax Compliance Certificate **(MANDATORY FOR LOCAL BIDDERS)**
4. Tender form duly **completed and signed** by the tenderer or his authorized agent **(MANDATORY).**
5. Anti-Corruption Declaration **must be signed (MANDATORY).**
6. Original Bid Security provided and valid for 150 days from date of tender opening. Value of Bid Security should be **KES 1,113,600.00** or equivalent in a freely convertible currency. **(MANDATORY).**
7. Duly completed Business Questionnaire.

NOTE: Failure to comply with Mandatory requirements will lead to disqualification. Only bidders who are successful at this stage will proceed to the next stage of evaluation.

B) TECHNICAL EVALUATION

1. **Bidders who are Manufacturers**

Documents submitted by manufacturers offering to supply pharmaceuticals under the Contract will be subjected to a detailed examination to confirm the following:

a) Current Good Manufacturing practice (GMP) Certificate **(MANDATORY).**

b) For products registered within the year, provide Product Registration certificate issued by the Kenya Pharmacy and Poisons Board. For products registered in prior years, provide Product Registration certificate and Retention Certificate with QR codes issued by the Kenya Pharmacy and Poisons Board **(MANDATORY).**

c) Current Manufacturing License **(MANDATORY).**

d) Current wholesale dealers license with QR codes– Applicable to local manufacturers **(MANDATORY).**

e) Current Superintendent Pharmacist practicing license with QR codes **(MANDATORY).**

f) Current Goods Distribution Practice (GDP) or Free Sale Certificate (FSC) Applicable to International Manufacturers

NOTE: Failure to comply with Mandatory requirements will lead to disqualification. Only bidders who are successful at this stage will proceed to the next stage of evaluation.

2. **Bidders who are Distributors**

Documents submitted by Distributors offering to supply pharmaceuticals under the Contract will be subjected to a detailed examination to confirm the following:

a) Manufacturers Authorization that is both tender and item specific.
Bidders who are distributors will be required to submit the following documents from their manufacturers in support of their bid:

i. Current Good Manufacturing practice (GMP) Certificate **(MANDATORY).**

ii. For products registered within the year, provide Product Registration certificate issued by the Kenya Pharmacy and Poisons Board. For products registered in prior years, provide Product Registration certificate and Retention Certificate with QR codes issued by the Kenya Pharmacy and Poisons Board **(MANDATORY).**

iii. Current Goods Distribution Practice (GDP) or Free Sale Certificate (FSC) Applicable to International bidders

b) Current wholesale dealers license with QR codes applicable to local distributors **(MANDATORY).**
c) Current Superintendent Pharmacist practicing license with QR codes for the distributor **(MANDATORY).**

Evaluation Criteria for Disinfectants and Antiseptics

a) Current GMP/Certificate of Quality from a recognized authority for the manufacturer **(MANDATORY).**
b) **Products should be listed with Pharmacy and Poisons Board**

c) Manufacturer's Authorization that is tender and item specific **(MANDATORY).**

NOTE: Failure to comply with Mandatory requirements will lead to disqualification. Only bidders who are successful at this stage will proceed to the next stage of evaluation.

C) PRODUCT EVALUATION

The product evaluation will be done on the sample submitted by the Bidders and will involve the following:

1) Evaluation of the Physical Properties and presentation of the products - The evaluation will be based on product type, product form i.e. the physical configuration and shape, product ingredients i.e. content, components and composition, measurements i.e. dimension and weight, elasticity where applicable, absorbency where applicable, texture where applicable

2) Evaluation of the product packaging based on Good Manufacturing and pharmaceutics practices of the particular dosage form and specifications under section V of the Tender document.

3) Evaluation of the product labeling criteria based on technical specifications spelt out under section F of the tender document.

The evaluation will be on a "Yes/No" basis;

NOTE: Only bidders who are successful at this stage will proceed to the next stage of evaluation.

D) FINANCIAL EVALUATION

Bidders who are successful at preceding stages of evaluation will have their prices compared and award recommended to the lowest evaluated responsive bid. However, bidders who have had unsatisfactory past performance on specific items shall not be recommended for award of similar items.

E) PRESENTATION OF DOCUMENTS

1 The "ORIGINAL TENDER" and "COPY OF TENDER," documents must be securely bound. No loose documents or papers will be accepted.

2 The "ORIGINAL TENDER" and "COPY OF TENDER," documents to be submitted shall contain information detailed in section 4 below.

3 The "ORIGINAL Schedule of Prices" and the "COPY Schedule of Prices" should be submitted in separate envelopes as detailed under clause 22.1 of ITT

4 Bidders should organize their tender documents as follows:

Section	**Document**
1	Tender Form
2	Bid /Tender Security
3	Copy of bidder's Tax Compliance Certificate
4	Copy of Bidder's Certificate of Incorporation
5	Duly completed Suppliers Business Questionnaire
6	Copy of Anti-Corruption Declaration duly signed
7	Copies of Manufacturer's certificate of incorporation in the country of origin. Copies of certificates should be organized as follows: 7.1 Copy of certificates of incorporation in the country of origin of the first manufacturer 7.2 Copy of certificates of incorporation in the country of origin of the second manufacturer 7.3 Copy of certificates of incorporation in the country of origin of the third manufacturer etc.
8	Copy of Manufacturer's manufacturing license. Copies of license should be organized as follows: 8.1 Copy of manufacturing license of the first manufacturer 8.2 Copy of manufacturing license of the second manufacturer 8.3 Copy of manufacturing license of the third manufacturer etc.
Section	**Document**
9	Current copy of authenticated GMP and or any other quality certificate e.g ISO. If GMP certificates are provided, certificates should be organized as follows: 9.1 Copy of GMP certificate of the first manufacturer 9. 2 Copy of GMP certificate of the second manufacturer 9.3 Copy of GMP certificate of the third manufacturer etc.

10	Manufacturer's Authorization. Copies of Authorization should be organized as follows: 10.1 Authorization by the first manufacturer 10.2 Authorization by the second manufacturer 10.3 Authorization by the third manufacturer etc.
11	Copy of current Wholesale Dealer's License with QR codes or Good Distribution Practice (GDP) or equivalent practice license from a recognized regulatory authority.
12	Copy of current certificate of Superintendent Pharmacist practicing license with QR codes
13	Summary of product registration/retention certificates with QR codes details
14	Copies of certificates of product registration/retention organized as follows 14.1 Copy of certificates of product registration/retention of first item bidded for 14.2 Copy of certificates of product registration/retention of second item bidded for 14.3 Copy of certificates of product registration/retention of third item bidded for, etc

5.1 Bidders should please provide a summary of the registration details of products they intend to supply under this contract in the following format: - **MANDATORY**

Item No.	**Item Description**	**Manufacturer**	**Brand**	**Kenya Pharmacy & Poison's Board Product Registration No.**	**Date of Registration/ Retention Renewal**	**Date of Registration/ Retention Expiry**

5.2 All certificates indicated above and all other technical documents required to qualify for the tender participation should be submitted together with the bid on or before the closing date. Any bid not accompanied by the certificates shall be rejected as non-responsive.

Appendix 1: Domestic Preferences

DOMESTIC PREFERENCE AND RESERVATIONS

The purchaser will grant a margin of preference in the evaluation of bids to bidders offering goods manufactured in the country of the purchaser when compared to bidders offering such goods manufactured elsewhere. The methods and stages set forth hereunder shall be followed during evaluation and comparison of bids.

1. A fifteen percent margin of preference in the evaluated price of the tender shall be given to candidates offering goods manufactured in Kenya.

2. A margin of preference for goods may be applied depending on the percentage of shareholding of the locals on a graduating scale as follows.

   (a) Six percent of the evaluated price of the tender, where the percentage of shareholding of the Kenyan citizens is less than twenty percent.
   (b) Eight percent of the evaluated price of the tender, where the percentage of shareholding of Kenyan citizen is less than fifty one percent but above twenty percent and
   (c) Ten percent of the evaluated price of the tender where the percentage of shareholding of Kenyan citizens is more than fifty percent.

3. Where citizen contractors have entered into contractual arrangements with foreign contractors, a ten percent margin of preference in the evaluated price of the tender shall be applied.

NOTE: Bidders who wish to be considered for Reservations and Preferences should provide CR 12 showing shareholding and nationality of shareholders issued by the Registrar of Companies. CR12 should have been issued within the last twelve months.
For partnership and sole proprietorship, provide a copy of National Identification Card/Passport