

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

**NAIROBI CITY COUNTY**



**HEALTH, WELLNESS & NUTRITION SERVICES**

**MBAGATHI HOSPITAL  
P.O. BOX 20725-00202**

**NAIROBI.**

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**TENDER NO. NCC/MH/T/016/2023-2024**

**FOR**

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

**CLOSING DATE & TIME:  
28<sup>TH</sup> MARCH 2024 AT 12:00 NOON**

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

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# FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN

## INVITATION TO TENDER

DATE: 13<sup>TH</sup> MARCH 2024

TENDER NO. NCC/MH/T/016/2023-2024- FOR

FRAMEWORK AGREEMENT FOR SUPPLY AND DELIVERY OF MEDICAL OXYGEN.

### (RE-TENDER)

The MBAGATHI COUNTY HOSPITAL hereafter invites sealed tenders for **framework agreement for supply and delivery of MEDICAL OXYGEN for a period of 2 years.**

1. Tendering will be conducted under National OPEN competitive method using a standardized tender document. Tendering is **OPEN to all qualified and interested Tenderers.**
2. A complete set of tender documents may be obtained electronically from the hospital Website [www.mbagathihospital.or.ke](http://www.mbagathihospital.or.ke) or PPIP Website [www.tenders.go.ke](http://www.tenders.go.ke). Tender documents obtained electronically will be free of charge.
3. Prices quoted should be net inclusive of all taxes, inflation, VAT and delivery to Mbagathi hospital general store. The prices must be expressed in Kenya Shillings. Please quote the price as per Unit of issue (dozen, pieces, pkts, pairs, boxes, roll, vials, ampoules, bottle, can, tubes, tablet etc).
4. All clarifications and/or amendments will be published in Mbagathi hospital website and tenderers are required to check for any addendums or amendments in the course of the bidding period prior to the closing date.
5. All Tenders **Must** be accompanied by a bid security in the form of **unconditional bank guarantee of kshs. 100,000.00 (one hundred thousand shillings only)** valid for **120 days** from the date of tender opening.
6. Completed tenders must be delivered to the address below on or before **28<sup>th</sup> March 2024 at 12:00 noon.** Electronic Tenders **will not** be permitted. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend.
7. Complete Tender documents in **PLAIN SEALED** envelopes clearly marked with the **TENDER NUMBER & NAME** should be addressed to:

**CHIEF EXECUTIVE OFFICER,  
MBAGATHI HOSPITAL,  
P.O. Box 2075-00202  
NAIROBI.**

and deposited in the tender box, situated at Mbagathi Hospital Administration block, not later than **THURSDAY 28<sup>TH</sup> March, 2024 at 12:00 noon**

Tenders will be opened immediately thereafter, in the presence of tenderers' or their representatives who choose to attend at Mbagathi Board Room.

8. **Late tenders will be rejected**



**SECTION II ~ INSTRUCTIONS TO TENDERERS**  
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**SECTION II – INSTRUCTIONS TO TENDERERS**

**2.1 Eligible Tenderers**

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to Instructions to Tenderers. Successful tenderers shall complete the supply, install and commissioning of the goods by the intended completion date specified in the tender documents.
- 2.1.2 The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subContractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.
- 2.1.4 Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

**2.2 Eligible Goods**

- 2.2.1 All goods to be supplied under the Framework Agreement shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, “origin” means the place where the goods(s) are 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

2.2.3 The origin of goods is distinct from the nationality of the tenderer and shall be treated thus in the evaluation of the tender.

**2.3 Cost of Tendering**

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

2.3.2 The price to be charged for the tender document shall not exceed Ksh 1000.00

2.3.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

**2.4. Contents of Tender Document**

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to tenderers

- (i) Invitation to Tender
- (ii) Instructions to Tenderers
- (iii) General Conditions of Framework Agreement
- (iv) Special Conditions of Framework Agreement
- (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Framework Agreement Form
- (ix) Bank Guarantee for Advance Payment Form
- (x) Manufacturer's Authorization Form
- (xi) Confidential Business Questionnaire Form
- (xii) Declaration form
- (xiii) Request for Review Form

2.4.2 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.

## **2.5 Clarification of Tender Documents**

- 2.5.1 A prospective tenderer making inquiries of the tender documents may notify the Procuring entity in writing or by post at the entity's address indicated in the invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.
- 2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## **2.6 Language of Tender**

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

## **2.7 Documents Comprising the Tender**

- 2.7.1 The tender prepared by the tenderers shall comprise the following components.
- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
  - (b) documentary evidence established in accordance with paragraph 2.12 that the tenderer is eligible to tender and is qualified to perform the Framework Agreement if its tender is accepted;
  - (c) documentary evidence established in accordance with paragraph 2.13 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and
  - (d) tender security furnished in accordance with paragraph 2.14
  - (e) Confidential Business Questionnaire

## **2.8 Tender Form**

- 2.8.1 The tenderer shall complete the Form of Tender and the appropriate Price



Schedule furnished in the tender documents, indicating the goods to be supplied, installed and commissioned and a brief description of the goods, their country of origin, quantity, and prices.

## **2.9 Tender Prices**

2.9.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices where applicable and total tender price of the goods and installation it proposes to supply under the Framework Agreement.

2.9.2 Prices indicated on the Price Schedule shall be entered separately in the following manner:

- (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable:
- (ii) charges for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination; and

2.9.3 Prices quoted by the tender shall remain fixed during the Tender's performance of the Framework Agreement. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22 unless otherwise agreed by the parties.

## **2.10 Tender Currencies**

2.10.1 Prices shall be quoted in the following currencies:

- (a) For goods that the tenderer will supply from within Kenya, the price shall be quoted in Kenya Shillings; and
- (b) For goods that the tenderer will supply from outside Kenya, the price may be quoted in US Dollars or in another freely convertible currency.
- (c) Cost of installation and commissioning will be in Kenya Shillings.

## **2.11 Tenderers Eligibility and Qualifications**

2.11.1 Pursuant to paragraph 2.1. The tenderers shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the Framework Agreement if its tender is accepted.

2.12.1 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.2 The documentary evidence of the tenderers qualifications to perform the Framework Agreement if its tender is accepted shall establish to the Procuring entity's satisfaction;

- (a) that, in the case of a tenderer offering to supply goods under the Framework Agreement which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods, Manufacturer or producer to supply the goods
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the Framework Agreement ;
- (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the Framework Agreement ) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Framework Agreement and/or Technical Specifications.

### **2.13 Goods Eligibility and Conformity to Tender Document**

2.13.1 Pursuant paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the Framework Agreement

2.13.2 The documentary evidence of the eligibility of the goods shall consist of statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods 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 characteristic of the goods
- b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity; and
- c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial

Responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the commentary to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and goods, as well as references to brand names or catalogue numbers designated by the Procurement entity 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 Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

#### **2.14 Validity of Tenders**

2.14.1 Tenderers shall remain valid for 120 days or as specified in the tender documents after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.20. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.14.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

#### **2.15 Format and Signing of Tender**

2.15.1 The Procuring entity shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as

Appropriate. In the event of any discrepancy between them, the original shall govern.

2.15.2 The original and all copies of the tender 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 Framework Agreement. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

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

## **2.16 Sealing and Marking of Tenders**

2.16.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY.**” The envelopes shall then be sealed in an outer envelope.

2.16.2 The inner and outer envelopes shall:

(a) Be addressed to the Procuring entity at the address given on the Invitation to Tender.

(b) bear the tender number and name in the Invitation to Tender and the words “**DO NOT OPEN BEFORE 28/03/2024 at 12.00 NOON**”

2.16.3 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”.

2.16.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## **2.17 Deadline for Submission of Tenders**

Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 not later than **28/03/2024 at 12.00 NON**

2.18.1 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

2.18.2 Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the Appendix.

**2.18 Modification and Withdrawal of Tenders**

2.18.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by the Procuring entity prior to the deadline prescribed for submission of tenders.

2.18.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.18.3 No tender may be modified after the deadline for submission of tenders.

2.18.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7

**2.19 Opening of Tenders**

The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, on **28/03/2024 at 12.00 NOON**. The tenderers' representatives who are present shall sign a tender opening register evidencing their attendance.

2.19.1 The tenderers' names, tender modifications or withdrawals, tender prices, discounts and the presence or absence of requisite tender security and such other details as the Procuring entity, at its discretion, may consider appropriate, will be announced at the opening.

2.19.2 The Procuring entity will prepare minutes of the tender opening.

## **2.20 Clarification of Tenders**

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

2.20.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or Framework Agreement award decisions may result in the rejection of the tenderers' tender.

## **2.21 Preliminary Examination and Responsiveness**

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

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

its tender security may be forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.21.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

2.21.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.21.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

## **2.22 Conversion to Single Currency**

2.22.1 Where other currencies are used, the Procuring Entity will convert those currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.23 Evaluation and Comparison of Tenders**

2.23.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.23.2 The Procuring entity's evaluation of a tender will exclude and not take into account

- (a) in the case of goods manufactured in Kenya or goods of foreign origin already located in Kenya, sales and other similar taxes, which will be payable on the goods if a Framework Agreement is awarded to the tenderer; and

- (b) Any allowance for price adjustment during the period of execution of the Framework Agreement, if provided in the tender.

2.23.3 The comparison shall be of the ex-factory/ex-warehouse/off-the-shelf price of the goods offered from within Kenya, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods.

2.23.4 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors, in the manner and to the extent indicated in paragraph 2.23.5 and in the technical specifications:

- (a) delivery and installation schedule offered in the tender;
- (b) deviations in payment schedule from the specifications in the Special Conditions of Framework Agreement;
- (c) the cost of components, mandatory spare parts and service;
- (d) the availability in Kenya of spare parts and after-sales service for the goods offered in the tender;

2.23.5 Pursuant to paragraph 2.24.4 the following evaluation methods will be applied

**(a) Delivery schedule**

- (i) The Procuring entity requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

**(b) Deviation in payment schedule**

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

**(c) Spare parts and after sales service facilities**



Tenderers must offer items with service and spare parts back-up. Documentary evidence and locations of such back-up must be given. Where a tenderer offers items without such back-up in the country, he must give a documentary evidence and assurance that he will establish adequate back-up for items supplied.

2.23.6 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

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

#### **2.24 Contacting the Procuring Entity**

2.24.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the Framework Agreement is awarded.

2.24.2 Any effort by a tenderer to influence the Procuring entity in its decisions on tender, evaluation, tender comparison, or Framework Agreement award may result in the rejection of the Tenderer's tender.

#### **2.25 Award of Framework Agreement**

##### **(a) Post-Qualification**

2.25.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the Framework Agreement satisfactorily.

2.25.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.25.3 An affirmative determination will be a prerequisite for award of the Framework Agreement to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**(b) Award Criteria**

2.25.4 The Procuring entity will award the Framework Agreement to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender within prevailing market prices, provided further that the tenderer is determined to be qualified to perform the Framework Agreement satisfactorily.

2.25.5 To qualify for Framework Agreement awards, the tenderer shall have the following:

- a) Necessary qualifications, capability experience, services, goods and facilities to provide what is being procured.
- b) Legal capacity to enter into a Framework Agreement for procurement
- c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- d) Shall not be debarred from participating in public procurement.

**(c) Procuring Entity's Right to accept or Reject any or All Tenders**

2.25.6 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to Framework Agreement award, without thereby incurring any liability to the affected tenderer or tenderer of the grounds for the procuring entity's action

2.25.7 The procuring entity may at any time terminate procurement proceedings before Framework Agreement award and shall not be liable to any person for the termination

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

2.25.9 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a Framework Agreement after notification of Framework Agreement award shall be considered for debarment from participating in future public procurement.

**2.26 Notification of Award**

2.26.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.

2.26.2 The notification of award will signify the formation of the Framework Agreement but will have to wait until the Framework Agreement is finally signed by both parties. Simultaneous other tenderers shall be notified that their tenders have not been successful.

2.26.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29, the Procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

**2.27 Signing of Framework Agreement**

2.27.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

2.27.2 Within fourteen (14) days of receipt of the Framework Agreement Form, the successful tenderer shall sign and date the Framework Agreement and return it to the Procuring entity.

2.27.3 The parties to the Framework Agreement shall have it signed within 30 days from the date of notification of Framework Agreement award unless there is an administrative review request.

**2.28 Corrupt or Fraudulent Practices**

2.28.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of Framework Agreement s. A tenderer shall sign a declaration that he has and will not be involved in corrupt or fraudulent practices.

3.30.2 The Procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the Framework Agreement in question.

3.30.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public Procurement in Kenya.

**Appendix to Instructions to Tenderers**

**Notes on the Appendix to the Instructions to Tenderers**

1. The Appendix to instructions to the tenderers is intended to assist the procuring entity in providing specific information in relation to corresponding clause in the instructions to Tenderers including in Section II and has to be prepared for each specific procurement.
2. The procuring entity should specify in the appendix information and requirement specific to the circumstances of the procuring entity, the goods to be procured and the tender evaluation criteria that will apply to the tenders.
3. In preparing the Appendix the following aspects should be taken into consideration;
4. The information that specifies and complements provisions of Section II to be incorporated
5. Amendments and/or supplements if any, to provisions of Section II as necessitated by the circumstances of the goods to be procured to be also incorporated
6. Section II should remain unchanged and can only be amended through the Appendix.
7. Clauses to be included in this part must be consistent with the public procurement law and the regulations.

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

**APPENDIX TO INSTRUCTIONS TO TENDERERS**

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

INSTRUCTIONS TO TENDERERS	PARTICULARS OF APPENDIX TO INSTRUCTIONS TOTENDERS
2.1.1	Tender open to all bidders eligible for Framework Agreement for the Supply and Delivery of MEDICAL OXYGEN
2.3.2	Tender documents with detailed Specifications and Conditions can be obtained from the office of Supply Chain Management located at the Hospital on Monday to Friday between 8.00 a.m. to 5.00 p.m., for free or from the Hospital’s website.
2.5.1	Mbagathi hospital shall only send to all prospective tenderers that have received the tender document, written copies of responses to the queries relevant to the bid document or specifications that necessitate additional information for the clarification of the documents.
2.12	The Documentary evidence of the tenderers qualifications to perform the Framework Agreement if its tender is accepted shall be established to the Procuringentity’s satisfaction; Registered offices and evidence of business premises. A valid Tax compliance certificate which will be verified by KRATCC checker Evidence that tenderer has the legal capacity to enter into aFramework Agreement for the procurement; Evidence that the tenderer is not insolvent, in receivership, bankrupt or in the process of being wound up and is not thesubject of legal proceedings relating to the foregoing; The person is not debarred from participating inprocurement t proceedings
2.15	Tenders shall remain valid for 150 days from the deadline date of submission of tender.
2.18.1	The day, date and time of closing the tender will be <b>28/03/2024 at12.00 NOON</b> East African Time
2.19.2	Any withdrawal notice shall NOT be sent by cable or telex but may by email
2.20.1	Tender will be opened on <b>28/03/2024 at 12.00 NOON</b> East African Time

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

2.21.1	The request for clarification and the response shall be in writing through the <b>Chief Executive officer</b> <b>Mbagathi Hospital</b> <b>P.O Box 20725-00202</b> <b>Nairobi.</b>
2.24.7	Preference is not applicable in this tender

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

2.24 Evaluation and Comparison of Tenders

**A. Preliminary Evaluation**

<b>Responsive</b>	<b>No. Requirements</b>	<b>Responsive or Not Responsive</b>
<b>MR 1</b>	Must Submit <b>Valid certified copy</b> by commissioner of oath copy of the Certificate of incorporation or Registration Certificate	
<b>MR 2</b>	Must Submit a <b>Valid certified copy</b> of Valid Tax Compliance certificate( will be subjected to a TCC checker)	
<b>MR 3</b>	Must submit a dully filled Confidential Business Questionnaire, signed and stamped	
<b>MR 4</b>	Must submit dully filled form of tender, signed and stamped	
<b>MR 5</b>	Attach <b>Valid certified copy</b> of Trade License from County Government	
<b>MR 6</b>	Submitted bid documents <b>MUST</b> be <u>sequentially</u> serialized (paginated) on every page and well bound.	
<b>MR 7</b>	Tender document must be in original format and must not be mutilated	
<b>MR 8</b>	<b>Bid bond of Ksh.100, 000 from recognized commercial bank valid for 120 days from tender opening date.</b>	
<b>MR 9</b>	Valid CR 12 Certificate (generated for the last three months )From The Registrar Of Companies/ ID For Sole Proprietorship	
<b>MR 10</b>	Must submit a Declaration to commitment to the code of ethics.	
<b>MR 11</b>	Must provide a manufacturers certificate from accredited body/manufacturers authorization certificate	

**At this stage, the tenderer’s submission will either be responsive or non-responsive. The non-responsive submissions in any of the above mandatory requirements will be eliminated from the entire evaluation process and will not be considered further.**

**B. Technical Evaluation**

**2. Technical Evaluation – Firm Capability**

	<b>Description</b>	<b>Marks(%)</b>
Experience (Bidders must demonstrate having performed works of similar nature and magnitude	Recommendation letters of good Performance from four previous customers for the last two years.( letters must be rated on a scale of 1 to 10) (5marks for each customer stated)	20
	Attach evidence-LPO, Framework Agreement s, Invoices, etc from the above customers (5marks for each customer stated)	20



**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

Bidders must demonstrate financial capability for at least 2 years.	Attach audited financial statement/ bank statement for the last two financial years.	20
Litigation History. Does your company have litigation history? Yes ( ) No ( )	Duly filled litigation history form ,signed and stamped by commissioner of oaths -FORM PQ-5	20
Company profile	Attached company profile and management structure indicating the present holders of positions provided.	10
Proof of physical address	Attach evidence of physical address of premises ( Any of ; Tenancy agreement, utility bills or title deed)	10
	<b>Total</b>	<b>100</b>

Tenderers who score 70 out of the maximum 100 marks will proceed to the financial evaluation. Those who score below 70 out of maximum 100 marks will be eliminated at this stage from the entire evaluation process.

**(C)Financial Evaluation**

2.26.4 Award Criteria	<p>The Procuring entity will award the Framework Agreement to the successful tenderer(s) 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 Framework Agreement satisfactorily</p> <p>The criteria to be used will be comparison for all technically responsive tenders, and the tender will be awarded to the lowest evaluated bidder per item.</p>
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SECTION III: GENERAL CONDITIONS OF FRAMEWORK AGREEMENT

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**SECTION III ~ GENERAL CONDITIONS OF FRAMEWORK AGREEMENT**

**3.1 Definitions**

3.1.1 In this Framework Agreement, the following terms shall be interpreted as indicated:-

- (a) “The Framework Agreement” means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Framework Agreement Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) “The Framework Agreement Price” means the price payable to the tenderer under the Framework Agreement for the full and proper performance of its Framework Agreement obligations
- (c) “The Goods” means all of the goods, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Framework Agreement.
- (d) “The Procuring entity” means the organization purchasing the Goods under this Framework Agreement.
- (e) “The Tenderer” means the individual or firm supplying the Goods under this Framework Agreement.

**3.2 Application**

3.2.1 These General Conditions shall apply in all Framework Agreement made by the Procuring entity for the supply and delivery of goods to the extent that they are not superseded by provisions of other part of Framework Agreement.

**3.3 Country of Origin**

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer and will be treated thus in the evaluation of the tender.

**3.4 Standards**

3.4.1 The Goods supplied under this Framework Agreement shall conform to the standards mentioned in the Technical Specifications.

**3.5 Use of Framework Agreement Documents and Information**

3.5.1 The Candidate shall not, without the Procuring entity's prior written consent, disclose the Framework Agreement, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Framework Agreement.

3.5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Framework Agreement itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Framework Agreement if so required by the Procuring entity

**3.6 Patent Rights**

3.6.1 The tenderer shall indemnify the Procuring entity 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 Procuring entity's country

**3.7 Inspection and Tests**

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

3.7.2 The inspections and tests may be conducted in the premises of the tenderer. All reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.7.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the goods, and the tenderer shall either replace the rejected goods or make alterations necessary to make specification requirements free of costs to the Procuring entity.

3.7.4 The Procuring entity's right to inspect test and where necessary, reject the goods after the goods arrival and delivery shall in no way be limited or waived by reason of the goods having

Previously been inspected, tested and passed by the Procuring entity or its representative prior to the goods delivery.

3.7.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Framework Agreement.

**3.8 Packing**

3.8.1 The tenderer shall provide such packing and packaging of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Framework Agreement .

3.8.2 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 Framework Agreement

**3.9 Delivery and Documents**

3.9.1 Delivery of the goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Framework Agreement

**3.10 Insurance**

3.10.1 The goods supplied under the Framework Agreement shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of Framework Agreement .

**3.11 Payment**

3.11.1 The method and conditions of payment to be made to the tenderer under this Framework Agreement shall be specified in Special Conditions of Framework Agreement

3.11.2 Payments shall be made promptly by the Procuring entity as specified in the Framework Agreement

**3.12 Prices**

3.12.1 Prices charged by the tenderer for goods delivered and installation performed under the Framework Agreement shall not, with the exception of any price adjustments authorized in Special Conditions of Framework Agreement , vary from the prices by the tenderer in its tender.

Framework Agreement price variations shall not be allowed for Framework Agreement not exceeding one year (12 months)

3.12.2 Where Framework Agreement price variation is allowed, the variation shall not

exceed 10% of the original Framework Agreement price.

3.12.3 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

**3.14. Assignment**

The tenderer shall not assign, in whole or in part, its obligations to perform under this Framework Agreement , except with the Procuring entity's prior written consent

**3.15. Subcontracts**

3.15.1 The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Framework Agreement if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Framework Agreement

**3.16. Termination for Default**

3.16.1 The Procuring entity may, without prejudice to any other remedy for breach of Framework Agreement , by written notice of default sent to the tenderer, terminate this Framework Agreement in whole or in part

- (a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Framework Agreement , or within any extension thereof granted by the Procuring entity
- (b) if the tenderer fails to perform any other obligation(s) under the Framework Agreement

- (c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Framework Agreement

3.16.2 In the event the Procuring entity terminates the Framework Agreement in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar goods.

### **3.17. Termination for convenience**

### **3.18. Liquidated Damages**

3.18.1 If the tenderer fails to deliver and/or install any or all of the items within the period(s) specified in the Framework Agreement, the procuring entity shall, without prejudice to its other remedies under the Framework Agreement, deduct from the Framework Agreement prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the Framework Agreement.

### **3.19. Resolution of Disputes**

3.19.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Framework Agreement

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

### **3.20. Language and Law**

3.20.1 The language of the Framework Agreement and the law governing the Framework Agreement shall be English language and the Laws of Kenya respectively unless otherwise specified in the SCC

**3.21. Force Majeure**

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

**3.22 Notices**

3.22.1 Any notice given by one party to the other pursuant to this Framework Agreement shall be sent to other party by post or by fax or Email and confirmed in writing to the other party's address specified.

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



**SPECIAL IV**

**SPECIAL CONDITIONS OF FRAMEWORK AGREEMENT**

**Notes on Special Conditions of Framework Agreement**

- 4.1 The clauses in this section are intended to assist the procuring entity in providing Framework Agreement -specific information in relation to corresponding clauses in the General Conditions of Framework Agreement
- 4.11 The Parties shall enter into a Framework Agreement within 28 days after the Contractor receives the Letter of Acceptance, unless the Particular Conditions establish otherwise. The Framework Agreement shall be based upon FORM No. 3 – FRAMEWORK AGREEMENT annexed to the Particular Conditions. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Framework Agreement shall be borne by the Procuring Entity.
- 4.12 The Framework Agreement establishes the terms and conditions that will govern the contract awarded during the term of the Framework Agreement. The Framework Agreement establishes for the procurement works by package as and when required, over the specified period of time. The Framework Agreement does not commit a Procuring Entity to procure, nor a Firm to supply. The Framework Agreement allows the Procuring Entity to call the Contractor to commence the works on a particular package in a specified location within the duration of the agreement.
- 4.13 This Framework Agreement does not guarantee the contractor of being called for a contract to start and no commitment is made with regard to possible number of packages to carry out.
- 4.14 This Framework Agreement does exclude the Procuring Entity from the right to procure the same Works from other firms.
- 4.15 This Framework Agreement does not stop the Procuring Entity from removing the contractor from the same Agreement.
- 4.16 FAs shall be established for a maximum period of three (3) years. The Procuring Entity may with the Consent of the Contractor extend this Agreement if the agreement period is less than three (3) years, if the initial engagement has been satisfactory.
- 4.17 Call-off Contracts; for work on a package to start, the Procuring Entity shall issue a notice of acceptance of a particular package requesting the contractor to furnish a Performance Security and to start the works thereafter, and providing the contractor with details of location where the works, are to be carried out. The call-off statement shall specify the objectives, tasks, deliverables, timeframes and price or price mechanism. The price for individual call-off contracts shall be based on the prices detailed in the Framework Agreement.
- 4.2 The provisions of Section IV complement the General Conditions of Framework Agreement included in Section III, specifying Framework Agreement ual requirements linked to the special circumstances of the procuring entity and the goods being procured. In preparing Section IV, the following aspects should be taken into consideration.
- (a) Information that complement provisions of Section III must be incorporated and
- (b) Amendments and/or supplements to provisions of Section III, as necessitated by the circumstances of the goods being procured must also be incorporated.

**SECTION IV - SPECIAL CONDITIONS OF FRAMEWORK AGREEMENT**

- 4.3 Special Conditions of Framework Agreement shall supplement the General Conditions of Framework Agreement. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
- 4.4 Special conditions of Framework Agreement as relates to the GCC

REFERENCE OFGCC	SPECIAL CONDITIONS OF FRAMEWORK AGREEMENT
3.4.1	Goods will be supplied as per the provided technical specifications.
3.8.1	Inspection and tests shall be conducted by a team after delivery at the MBAGATHI HOSPITAL (MH) premises The tenderer shall provide all necessary assistance, goods, human resource and any other support.
3.10.1	The delivery of the goods shall be at the point of use within the hospital premises. Delivery of the goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Framework Agreement .
3.11.1	The Goods under the Framework Agreement shall be fully insured by the tenderer against loss or damage incidental to manufacturer or acquisition, transportation and delivery as indicated under A warranty period to be specified
3.12.1	The payment terms shall be upon supply, delivery, inspection and acceptance of the goods
3.13.2	Framework Agreement price variation shall not be allowed within the first twelve months. Any variation thereafter shall not exceed 10% of the original Framework Agreement price.
3.15.1	The Tender shall not be subcontracted
3.18.1	Any dispute arising from the interpretation or performance of this Framework Agreement shall be resolved through arbitration. The arbitrator shall be appointed by the Chairperson of the Chartered Institute Arbitrators – Kenya Chapter

**SECTION ~ V~ SCHEDULE OF REQUIREMENTS AND PRICES**

**Notes on Schedule of Requirements and Prices**

- 5.1 The Procuring entity must state whether the Framework Agreement is for procurement, installation and commissioning OR whether it is for installation and commissioning only, in which case, the goods will have been procured separately.
- 5.2 The tenderers may use additional paper as will be necessary to indicate the details of their costing.
- 5.3 The tenderers to indicate in detail the preferred breakdown and period of payment in accordance with 3.12.1 of SCC.

**SECTION VI ~ TECHNICAL SPECIFICATIONS**

**6.1 GENERAL**

- 6.1.1. These specifications describe the basic requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc. for the products they intend to supply.
- 6.1.2 Tenderers must indicate on the specifications sheets whether the goods offered comply with each specific requirement.
- 6.1.3 All the dimensions and capacities of the goods to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any, shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products
- 6.1.4 The tenderers are requested to present information along with their offers as follows;-
  - (i) Shortest possible delivery period of each product
  - (ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses

**PRICE SCHEDULE FOR REQUIREMENTS**

Lot No.	Item Description and Specifications	Unit of Issue	Quantity	Unit Price	Remarks
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**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

1.	Medical oxygen 8.5m <sup>3</sup> (CYLINDER)	Pcs	1		A&WR
2.	Medical oxygen 1.36m <sup>3</sup> (CYLINDER)	Pcs	1		A&WR
3.	Medical oxygen 3.4m <sup>3</sup> (CYLINDER)	Pcs	1		A&WR
4.	Nitrous oxide 8.5m <sup>3</sup> (CYLINDER)	Pcs	1		A&WR
5.	Medical liquid oxygen	Litres	1		A&WR
<b>TOTAL</b>					

Delivery Period

SECTION X ~

STANDARD FORMS

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

**10.1 FORM OF TENDER**

The Chief Executive Officer  
Mbagathi Hospital  
P.O Box 20725-00202  
Nairobi.

Date \_\_\_\_\_  
Tender No. NCC/MH/T/016/2023-2024.

Gentlemen and/or Ladies:

1. Having examined the tender documents including all addenda where applicable the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply & deliver Medical Oxygen in conformity with the said tender documents for the sum of ..... *(total tender amount in words and figures)*

2. We undertake, if our Tender is accepted, to deliver the item in accordance with the delivery schedule specified in the Schedule of Requirements.

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

4. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Framework Agreement, between us. Subject to signing of the Framework Agreement by the parties.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2024

\_\_\_\_\_  
[Signature]

\_\_\_\_\_  
[In the capacity of]

Duly authorized to sign tender for an on behalf of \_\_\_\_\_

FORM PQ-5- LITIGATION HISTORY

Name of Framework Agreement supplier

Framework Agreement /suppliers should provide information on any history litigation or arbitration resulting from Framework Agreement executed in the last five years or currently under execution.

YEAR	AWARD FOR OR AGAINST	NAME OF CLIENT CAUSE OF LITIGATION AND MATTER IN DISPUTE	DISPUTED AMOUNT (CURRENT VALUE, KSHS.EQUIVALENT

Signed and stamped by commissioner of oaths.

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2(b) or 2 (c) (Whichever applied to your type of business) and part 3(a) & 3(b) that is mandatory. You are advised that it is a serious offence to give false information on this form

**Mandatory**

*Part 1 – General:*

Business Name

.....  
Location of business premises.

.....  
Plot No..... Street/Road

Postal Address ..... Tel No. ....company Mobile ..... E  
mail address.....Contact Person .....Mobile.....

Nature of Business,.....

Registration Certificate No. ....

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

Name of your bankers ..... Branch. ....

**Complete part 2(a), 2(b) or 2(c)**

Part 2 (a) – Sole Proprietor

Your name in full ..... Age .....

Nationality ..... Country of origin .....

- Citizenship details





**Mandatory**

Part 3 (a) – Pursuant to section 33(1) and 33(2) of the public procurement Assets and Disposal Act 2015 and section 26 of the Regulations 2006. This must be signed by all Directors Partner (s) /Sole Proprietor of the Company

I /we the Director(s) of Company/Firm ..... hereby  
Declare that I /we are not a board member, employee or even a relative to any employee of  
MBAGATHI HOSPITAL.

**FRAMEWORK AGREEMENT FOR THE SUPPLY AND DELIVERY OF MEDICAL OXYGEN**

Given details of partners /Directors /Sole proprietor as follows:

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

**Mandatory**

Part 3(b) Public Procurement & Assets Disposal Act 2015 and section 26 of the Regulations 2006. Pursuant to section 115 of the Public Procurement and Disposal Act 2005, I/ we the Directors/Partners/Sole Proprietor of this Company/Firm.....confirm that

company /Firm .....has not been debarred in Kenya not toParticipate in any Tender/Bidding in Kenya.

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

Sign .....Date .....Stamp.....

10.3 FRAMEWORK AGREEMENT FORM

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ between ..... [name of Procurement entity] of..... [country of Procurement entity] (hereinafter called “the Hospital) of the one part and ..... [name of tenderer] of ..... [city and country of tenderer] (hereinafter called “the tenderer”) of the other part;

WHEREAS the Hospital invited tenders for certain goods ] and has accepted a tender by the tendererfor the supply of those goods in the sum of ..... [Framework Agreement price in words and figures] (hereinafter called “the Framework Agreement Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

- 1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Framework Agreement referred to:
2. The following documents shall be deemed to form and be read and construed as part of this Agreement:
(a) the Tender Form and the Price Schedule submitted by the tenderer
(b) the Schedule of Requirements(c ) the Technical Specifications
(d) the General Conditions of Framework Agreement
(e) the Special Conditions of Framework Agreement
(f) the Hospital’s Notification of Award
3. In consideration of the payments to be made by the Hospital to the tenderer as hereinafter mentioned, the tender hereby covenants with the Hospital to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Framework Agreement
4. The Hospital hereby covenants to pay the tenderer in consideration of the provisions of the goods and the remedying of defects therein, the Framework Agreement Price or such other sum as may become payable under the provisions of the Framework Agreement at the times and in the manner prescribed by the Framework Agreement .

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Hospital

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer in the presence of \_

\_\_\_\_\_

10.4 PERFORMANCE SECURITY FORM

To .....  
[name of Hospital]

WHEREAS..... [name of tenderer] (hereinafter called “the tenderer”)  
has undertaken , in pursuance of Framework ..... [reference number of the  
Agreement No. \_\_\_\_\_  
Framework Agreement ] 20\_\_\_\_\_ To \_\_\_\_\_ Supply  
dated \_\_\_\_\_  
..... [description of goods] (hereinafter called “the  
Framework Agreement ”).

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

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

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

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signed and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial  
institution]/[address]  
\_\_\_\_\_  
[date]

10.8 LETTER OF INTENTION FOR NOTIFICATION OF AWARD

Address of Hospital

\_\_\_\_\_

\_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the Framework Agreement /s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
  
2. The Framework Agreement /Framework Agreement shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
  
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)* \_\_\_\_\_

\_\_\_\_\_

SIGNED FOR ACCOUNTING OFFICER