



PROCUREMENT OF GOODS

Request for Offers for Framework Agreements

**KEMSA/WB-CERP/NCB 01/2021-
2023**

**Procurement of 3,125 Manual Sars-
Cov 2 RT-PCR detection kits
(300,000 detection tests)**

Tender Closing Date: 21st September 2021, 10.00am

Specific Procurement Notice (SPN)
Request for Offers
Framework Agreement (s) for Supply of Manual
Sars-Cov 2 RT-PCR detection kits COVID-19
Emergency Response Procurement

Procuring Agency: Kenya Medical Supplies Authority (KEMSA)

Country: Kenya

Name of Project: Kenya Covid-19 Emergency Response Project (K-CERP)

Framework Agreement Title: Supply of Manual Sars-Cov 2 RT-PCR detection kits, Qty 3,125 kits

Request for Framework Agreement Reference No.: KEMSA/WB-CERP/NCB 01/2021-2023

Project ID No. P173820

Credit No. 65980

Request for Offers for Framework Agreement(s)

1. This request for **Offers for Framework Agreements (FAs)** is for the procurement of Goods and Related Services, required in response to the COVID-19 emergency.
2. The Government of Kenya has received financing from the World Bank (Bank) toward the cost of the Kenya Covid-19 Emergency Response Project (K-CERP) and intends to apply part of the proceeds toward payments under Call-off Contracts that may be awarded under the Framework Agreements (FAs) for Supply of 3125 Manual Sars-Cov 2 RT-PCR detection kits (300,000 detection tests), concluded through this procurement process.
3. The primary procurement to establish FA(s) will be conducted through streamlined competitive procurement process, and is open to all eligible suppliers as defined in the World Bank's "Procurement Regulations for IPF Borrowers dated July 16, Revised November 2017 and August 2018" ("Procurement Regulations").
4. The Procuring Agency now invites sealed Offers from eligible suppliers for Supply of 3125 Manual Sars-Cov 2 RT-PCR detection Kits, estimated Quantity of 300,000 detection tests, over the two year framework contract period.

-
5. Qualified and interested tenderers may obtain further information and inspect the Request for Offers for FAs during office hours at the address given below;

Kenya Medical Supplies Authority,

13 Commercial Street, Industrial Area

P.O Box 47715-00100, Nairobi

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

Email: procurement.programs@kemsa.co.ke

On normal working days on Monday to Friday between 0900hrs and 1600hrs except on Public Holidays.

Interested eligible bidders may download a complete set of tender documents from the KEMSA Website www.kemsa.co.ke or PPIP Portal: <https://tenders.go.ke>.

Documents downloaded are free of charge and bidders are advised to register at the Procurement Office or via email at procurement.programs@kemsa.co.ke (Refer to registration form in the tender document)

6. The deadline for submission of offers is **21st September 2021**. Offers will be opened on **21st September 2021 at 10.00am** by the Procuring Agency's representatives in the presence of the supplier's designated representatives who choose to attend. Minutes of the opening will be shared with all suppliers who submitted an Offer.
7. **There will be a pre-bid conference at KEMSA Commercial Street Board room on Monday, 13th September 2021 starting at 10.00 a.m.**

Table of Contents

Instructions to Suppliers	1
Primary Procurement- Framework Agreement Forms	9
Manufacturer’s Authorization	16
Framework Agreement.....	18
Framework Agreement Provisions (FAP)	20
Framework Agreement – Schedules.....	39

Instructions to Suppliers

1. This request for Offers for concluding a Framework Agreement(s) (FA(s)) is for the procurement of 3,125 Manual Sars-Cov 2 RT-PCR detection kits required in response to the COVID-19 emergency.
2. The Government of Kenya has received financing from the World Bank (Bank) toward the cost of the Kenya Covid-19 Emergency Response Project (K-CERP) and intends to apply part of the proceeds toward payments under Call-off Contracts that may be awarded under the Framework Agreements (FAs)] for Supply of 3,125 Manual Sars-Cov 2 RT-PCR detection kits concluded through this procurement process.
3. The FA(s) will be established through a streamlined competitive procurement process (“the Primary Procurement”) open to all eligible suppliers as defined in the World Bank’s “Procurement Regulations for IPF Borrowers dated July 16, Revised November 2017 and August 2018” (“Procurement Regulations”).
4. The Procuring Agency now invites sealed Offers from eligible suppliers for Supply of 3,125 Manual Sars-Cov 2 RT-PCR detection kits (Pack of 96 Reactions), The Procuring Agency is the sole Purchaser under the Framework Agreements
5. The Framework Agreements to be concluded will be Single-User. The Single-User entitled to purchase under the Framework Agreements is Kenya Medical Supplies Authority (KEMSA).
6. This Primary Procurement intends to conclude **Multi-Supplier Framework Agreement(s)** up to a maximum of two (2) Suppliers.
7. The Framework Agreements shall be concluded for a Term of Two (2) years from the commencement date stated in the Framework Agreement. There will be an option to extend the initial contract term by one year.
8. The Primary Procurement shall establish Closed Framework Agreement(s).
9. The selection of a FA supplier to be awarded a Call-off Contract will be done through a Secondary Procurement process as defined in the Framework Agreement(s). However, the conclusion of a Framework Agreement shall not impose any obligation on the Procuring Agency, to purchase Goods under a Call-off Contract, nor does it prevent the Procuring Agency, from purchasing the same or similar Goods outside the Framework Agreement(s).
10. Any clarification request regarding this Request for Offers for FA(s) may be sent in writing to:

The Ag. Chief Executive Officer

Kenya Medical Supplies Authority (KEMSA)
Commercial Street Building No. 13, Industrial Area
P.O Box 47715-00100 Nairobi, Kenya
Tel: 254 20 3922000

Email: procurement.programs@kemsa.co.ke

11. The Procuring Agency will forward copies of its response, including a description of the inquiry but without identifying its source, to all suppliers to whom the request for offers for FA document has been issued to.
12. Offers for the FA(s) shall be submitted using the following:
Completed bidding documents one original and a copy in plain sealed envelopes clearly marked on top with the Tender Number and description shall be addressed to:
The Ag. Chief Executive Officer
Kenya Medical Supplies Authority (KEMSA)
Commercial Street Building No. 13, Industrial Area
P.O Box 47715-00100
Nairobi, Kenya
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 19th March 2021 at 10.00 am.

The address for submission of bids is:

Attention: Ag. Chief Executive Officer
Kenya Medical Supplies Authority (KEMSA)
Commercial Street, Industrial Area
13. The deadline for submission of offers is **21st September 2021**. Offers will be opened on **21st September 2021 at 10.00am** by the Procuring Agency's representatives in the presence of the supplier's designated representatives who choose to attend. Minutes of the opening will be shared with all suppliers who submitted an Offer.
14. The Offers shall be valid for 120 days from the tender closing date.
15. A supplier may be a firm that is a private entity, a state-owned enterprise or institution subject to para. 18 below, or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of Call-off Contract(s). The JV shall nominate a representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the Primary Procurement process and any Call-off Contract.
16. Suppliers that are state-owned enterprises or institutions in the Procuring Agency's country may be eligible to compete and conclude a Framework Agreement or be awarded a Call-off Contract(s) only if they can establish, in a manner acceptable to the Bank, that they:
 - (a) are legally and financially autonomous;
 - (b) operate under commercial law; and
 - (c) are not under supervision of the agency concluding or managing this Framework Agreement or a Purchaser.

17. A supplier may have the nationality of any country, subject to the restrictions pursuant to para. 20 below. A supplier shall be deemed to have the nationality of a country if the supplier is constituted, incorporated or registered in, and operates in conformity with, the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub consultants for any part of a Call-off Contract including Related Services.
18. Firms and individuals may be ineligible if so indicated in para. 22 below and:
 - (a) as a matter of law or official regulations, the Borrower's country prohibits commercial relations with that country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of Goods or the contracting of works or services required; or
 - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of Goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

19. All the Goods and Related Services to be supplied under a Call-off Contract awarded under a Framework Agreement and financed by the Bank, may have their origin in any country in accordance with para. 22 below.
20. In reference to para. 20 and 21, for the information of suppliers, at the present time firms, goods and services from the following countries are excluded from this procurement process:
 - (a) Under para. 20 (a) and para. 21: *none*
 - (b) Under para. 20 (b) and para. 21: *none*
21. A supplier that has been sanctioned by the Bank, pursuant to the Bank's Anti-Corruption Guidelines, in accordance with its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework as described in the Appendix to the Framework Agreement paragraph 2.2 d., shall be ineligible to be awarded or otherwise benefit from a Bank-financed Framework Agreement or Call-off Contract, financially or otherwise, during such period of time as the Bank shall have determined.

A list of debarred firms and individuals is available on the Bank's external website: <http://www.worldbank.org/debarr>.
22. A firm that submits an Offer to conclude an FA (either individually or as a JV member) shall not participate in more than one Offer for the same item. This includes participation as a subcontractor. A firm that does not itself submit an Offer for an item either individually or as a JV member, may participate as a subcontractor in more than one Offer for the item.
23. A supplier shall not have a conflict of interest. Any supplier found to have a conflict of interest shall be disqualified. A supplier may be considered to have a conflict of interest for the purpose of this framework agreement process, if the supplier:
 - (i) directly or indirectly controls, is controlled by or is under common control with another supplier that submitted an Offer for the same item; or
 - (ii) receives or has received any direct or indirect subsidy from another supplier that submitted an Offer for the same item; or
 - (iii) has the same legal representative as another supplier that submitted an Offer for the same item; or
 - (iv) has a relationship with another supplier that submitted an Offer for the same item, directly or through common third parties, that puts it in a position to influence the Offer of another supplier, or influence the decisions of the Procuring Agency regarding this Primary Procurement process; or
 - (v) or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Goods, or Related Services, that are the subject of the Primary procurement process; or
 - (vi) or any of its affiliates has been hired (or is proposed to be hired) by the Procuring Agency or Purchaser or Borrower in implementing the Framework Agreement or a Call-off Contract; or

- (vii) would be providing Goods, works, or non-consulting services resulting from, or directly related to consulting services for the preparation or implementation of the project that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
- (viii) has a close business or family relationship with a professional staff of the Borrower (or of the project implementing agency, or of a recipient of a part of the loan) who are involved in the preparation or implementation of Framework Agreement or Call-off Contract.

Fraud and Corruption

- 24. The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the WBG's Sanctions Framework, as set forth in the Appendix to the Framework Agreement.
- 25. In further pursuance of this policy, suppliers shall permit and shall cause their agents (where declared or not), subcontractors, sub consultants, service providers, suppliers, and personnel, to permit the Bank to inspect all accounts, records and other documents relating to the Primary Procurement process, Framework Agreement performance, Secondary Procurement, and/or Call-off Contract/s performance (in case of award), and to have them audited by auditors appointed by the Bank.
- 26. Unit Prices in the Price Schedules shall be quoted against quantities indicated in the following manner:
 - (a) For Goods to be supplied from within the Purchaser's Country:
 - (i) The price of goods including the price for inland transportation, insurance, and other local services required to convey the Goods to their final destinations (Project Sites as indicated in the delivery schedule).
 - (b) For Goods to be supplied from outside the Purchaser's Country:
 - (i) The price of the Goods, quoted DDP named place of destination in the Purchaser's Country.
 - (c) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, **whenever such Related Services are specified in the Schedule of Requirements**, the price of each item comprising the Related Services (inclusive of any applicable taxes).

The contractual unit prices shall be fixed during the Supplier's performance of the Contract and not subject to adjustment.

27. The supplier may quote its price in a foreign currency of its choice in addition to the currency of the Purchaser's Country (for any local costs as applicable).
28. The offers will be evaluated to ensure compliance with the Technical Specifications, Delivery and Completion Schedules and any other requirements of the Request for FA(s).
29. The comparison shall be on the basis of DDP prices for Goods to be supplied from outside the Purchaser's country and EXW prices for Goods supplied from within the Borrower's country; together with prices for any required installation, training, commissioning and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported goods and sales and similar taxes levied in connection with the sale or delivery of goods.
30. The evaluated unit price/s will be determined after correcting any arithmetic errors and other specified adjustments, if any.
31. For evaluation and comparison purposes, the currency(ies) of the Offers shall be converted into a single currency. The currency that shall be used for comparison purposes to convert at the selling exchange rate offered prices expressed in various currencies into a single currency is: ***Kenya Shillings***. exchange rate offered prices expressed in various currencies into a single currency is: ***Kenya Shillings***. The source of exchange rate shall be: **The Central Bank of Kenya selling rate**. The date for the exchange rate shall be: **21st September 2021**.
32. After determining the substantially responsive and the lowest-evaluated unit rate/s Offer/s, the Procuring Agency shall carry out the post-qualification of the supplier/s using the requirements specified below:

a) Financial Capability

The Bidder shall furnish Copies of audited financial statements for the past three years as documentary evidence that it meets the following financial requirement(s):

The bidders shall have generated average annual sales turnover of at least twice their bid value

(b) Experience and Technical Capacity

The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): That bidder has supplied similar products of same scope in any one of the last five calendar years. Copies of previous contracts performed or Purchase orders and the respective acceptance certificates issued by reputable organization shall be submitted. Contacts for the organizations shall be provided to facilitate authentication

There shall not be any adverse report regarding supplies of the specific items offered for the last five years preceding the date of bid opening.

(a) If the supplier is not a manufacturer:

If a supplier is not a manufacturer, but is offering the Goods on behalf of the Manufacturer under Manufacturer's Authorization Form, the Manufacturer shall demonstrate the above qualifications (i), (ii), (iii) and the supplier shall demonstrate that it has successfully completed at least 3 contracts of similar goods in the past 5 years.

33. The Framework Agreement will be signed with eligible supplier/s who:

- (a) “highest ranking suppliers in terms of lowest evaluated unit rates for an item
- (b) is substantially responsive to the requirements of this Request for FA(s); and
- (c) is qualified in accordance with para. 22 above.

Notification to conclude a Framework Agreement

34. The Procuring Agency shall invite by the quickest means [*e.g. e-mail*] the successful suppliers for any discussion/ negotiation that may be needed to conclude the Framework Agreement or otherwise for signature of the FA/s.

35. The Procuring Agency shall communicate by the quickest means with the other Suppliers on its decision on the conclusion of the FA/s. An unsuccessful supplier may request clarifications as to why its Offer was not determined to be successful. The Procuring Agency will address this request within a reasonable time.

36. The Procuring Agency shall publish the Conclusion of Framework Agreement notice on its website with free access, if available, or in a newspaper of national circulation or UNDB online, within 15 days after award of contract. The information shall include: name and address of the Procuring Agency, and if applicable, all participating Purchasers; name and reference number of the Framework Agreement being concluded, and the selection method used; names of all suppliers that submitted offers, and their prices as offered and as evaluated; names of all suppliers whose Offers were not included for the FA with reasons; and the name(s) of the successful supplier (s), the duration of Framework Agreement(s), and a summary of its scope.

No obligation to Purchase

37. The conclusion of a Framework Agreement shall not impose any obligation on the Procuring Agency and/or Purchaser(s) to purchase any Goods under the Framework Agreement.

Secondary Procurement Process for awarding a call-off Contract

38. The Secondary Procurement method that shall apply in selecting FA supplier and awarding a Call-off contract is specified in the Framework Agreement (Framework Agreement, Schedule 4, Secondary Procurement). To be entitled to participate in a Secondary Procurement, and awarded a Call-off Contract, FA suppliers must continue to be qualified and eligible, and the Goods must continue to be eligible. The

- Purchaser may require, at the Secondary Procurement stage and award of Call-off Contract, evidence of such continued qualification and eligibility.
39. The Call-off Contract Price at the Secondary Procurement stage shall not be subject to price adjustment unless specified in the Framework Agreement.

Primary Procurement - Framework Agreement Forms

Supplier Offer Form

From:	<i>[Insert Supplier's name]</i>
Supplier's Representative:	<i>[Insert name of Supplier's Representative]</i>
Title/Position:	<i>[Insert Representatives title or position]</i>
Address:	<i>[Insert Supplier's address]</i>
Email:	<i>[Insert Supplier's email address]</i>

To:	
Purchaser's Representative:	Mr. Edward Njoroge
Title/Position:	Ag. Chief Executive Officer
Address :	Kenya Medical Supplies Authority Commercial Street, Industrial Area P.O Box 47715 Nairobi, Kenya Tel: 254 20 3922000 Fax: 3922400 Email: procure@kemsas.co.ke
RFA Ref No.:	KEMSA/WB-CERP/NCB 01/2021-2023
Date of Offer:	3 rd September 2021

Dear *[insert name of Procuring Agency]*:

- (a) **No reservations:** We have examined and have no reservations to the Request for Framework Agreement document, including any addenda issued.
- (b) **Eligibility:** We meet the eligibility requirements and have no conflict of interest.
- (c) **Eligible Goods and Related Services:** If we conclude a Framework Agreement, the Goods and Related Services that we may supply under a Call-off Contract awarded under the Framework Agreement, shall be sourced from an eligible country. The Goods and Related Services shall be sourced from *[insert name of the country(ies)]*.
- (d) **Conformity:** We offer to supply, in conformity with the Request for Framework Agreement document and in accordance with Section VII- Schedule of Requirements, the following Goods: *[insert a brief description of the Goods and Related Services]*.
- (e) **Offered Unit Price:** The total **unit price/s** *[including Related Services, if applicable]* for the offered items is included in the attached Price Schedule- Summary.

- (f) **Unconditional Discounts:** The unconditional discounts offered are: *[Specify any unconditional discount offered on the unit price/s.]*
- (g) **Validity Period:** Our Offer shall be valid until the date specified in the Request for Offers for Framework Agreement, and it shall remain binding upon us and may be accepted at any time before it expires.
- (h) **Performance Security:**
 If our Offer is accepted and we conclude a Framework Agreement, we understand that we are required, as a condition of a subsequent Call-off Contract, to obtain a performance security valued at 10% of the contract sum.
- (i) **One Offer per Supplier:** We are not submitting an Offer for the same item both individually and as a Joint Venture member or as a subcontractor.
- (j) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Procuring Agency’s Country laws or official regulations or pursuant to a decision of the United Nations Security Council.
- (k) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the Request for Framework Agreement process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

Name of Recipient	Address	Reason	Amount

[If none has been paid or is to be paid, indicate “none.”]

- (l) **Not Bound to Purchase:** We understand that there is no obligation on the Procuring Agency/Purchaser(s) to purchase any Goods, and/or Related Services from any FA Supplier during the Term of the Framework Agreement.
- (m) **No expectation of Call-off Contract:** We confirm that no undertaking or any form of promise, representation or obligation has been made by the Procuring Agency/Purchaser in respect of the possible quantities or value of the Goods that may be ordered by it, or any participating Purchaser(s), in accordance with this Framework Agreement. We acknowledge and agree that we have not submitted this Offer on the basis of any such undertaking, promise or representation. If we conclude a Framework

Agreement, we have no legitimate expectation of being awarded a Call-off Contract under the Framework Agreement.

- (n) **Not Bound to Accept:** In relation to this Primary Procurement, we understand that you are not bound to accept any Offer that you may receive.
- (o) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

Name of the Supplier: *[insert complete name of the Supplier]

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

Title of the person signing the Offer: [insert complete title of the person signing the Offer]

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

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

* In the case of the Offer submitted by a Joint Venture specify the name of the Joint Venture as Supplier.

** Person signing the Offer shall have the power of attorney given by the Supplier. The power of attorney shall be attached with the Schedules.

Price Schedule

			Date: _____			
			Request for FA No: _____			
			Page N° _____ of _____			
1	2	3	4	5	6	7
Line Item N°	Description of Goods	Unit of Measure	Initial Quantity	Indicative Delivery Period as defined by Incoterms	Country of Origin	Unit price DDP (KEMSA EMBAKASI WAREHOUSE)
1	Manual Sars-Cov 2 RT-PCR detection kits	Pack of 96 reactions	3,125 kits	4 weeks from Purchase Order date		
Name of Supplier <i>[insert complete name of Supplier]</i>						
Signature of Supplier <i>[signature of person signing the Offer]</i>						
Date <i>[insert date]</i>						

Supplier Information Form

Primary Procurement - Framework Agreement Goods

[The Supplier shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]

Date: *[insert date (as day, month and year) of Offer submission]*

Request for FA No.: *[insert reference number]*

Page _____ of _____ pages

1. Supplier's Name <i>[insert Supplier's legal name]</i>
2. In case of JV, legal name of each member: <i>[insert legal name of each member in JV]</i>
3. Supplier's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Supplier's year of registration: <i>[insert Supplier's year of registration]</i>
5. Supplier's Address in country of registration: <i>[insert Supplier's legal address in country of registration]</i>
6. Supplier's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement. <input type="checkbox"/> In case of state-owned enterprise or institution, documents establishing: <ul style="list-style-type: none">• Legal and financial autonomy• Operation under commercial law• Establishing that the Supplier is not under the supervision of the Procuring Agency or Purchaser
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Supplier's JV Members Information Form Primary Procurement - Framework Agreement Goods

[The Supplier shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Supplier and for each member of a Joint Venture]].

Date: *[insert date (as day, month and year) of Offer submission]*

Request for FA No.: *[insert reference number]*

Page _____ of _____ pages

1. Supplier's Name: <i>[insert Supplier's legal name]</i>
2. Supplier's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Supplier's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Supplier's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Supplier's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Supplier's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member authorized representative]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Agency or Purchaser.
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Manufacturer's Authorization

[The Supplier shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization shall be on the letterhead of the Manufacturer and shall be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.]

Date: *[insert date (as day, month and year) of Offer submission]*

Request for FA No.: *[insert reference number]*

To: *[insert complete name of Procuring Agency]*

WHEREAS

We *[insert complete name of Manufacturer]*, who are official manufacturers of *[insert type of Goods manufactured]*, having factories at *[insert full address of Manufacturer's factories]*, do hereby authorize *[insert complete name of Supplier]* to submit an Offer the purpose of which is to provide the following Goods, manufactured by us *[insert name and or brief description of the Goods]*, and to subsequently sign a Framework Agreement permitting them to enter into Call-off Contracts for the supply of the Goods.

We hereby extend our full guarantee and warranty in accordance with FAP 11 of the Framework Agreement, with respect to the Goods offered by the above firm.

We confirm that we do not engage or employ forced labor or persons subject to trafficking or child labor, in accordance with FAP 4 of the Framework Agreement. We also confirm that we comply with applicable health and safety obligations in accordance with FAP 4 of the Framework Agreement.

Signed: *[insert signature(s) of authorized representative(s) of the Manufacturer]*

Name: *[insert complete name(s) of authorized representative(s) of the Manufacturer]*

Title: *[insert title]*

Dated on _____ day of _____, _____ *[insert date of signing]*

1. Tender-Securing Declaration Form

[The bidder shall complete this form in accordance with the instructions indicated.]

Date: *[insert date (as day month and year) of bid submission]*

NCB No: *[Insert NCB No]*

To: *[Insert complete name of purchaser]*

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-securing declaration.
2. We accept that we automatically be suspended from being eligible for bidding in any contract with the purchaser for the period of time as specified in the Conditions of Contract, if we are in breach of our obligation(s) under the bid conditions because we-
 - a) Have withdrawn our Bid during the period of bid validity specified by us; or
 - b) Having been notified of the acceptance of our Bid by the purchaser during the period of Bid validity
 - i. Fail or refuse to execute the contract, if required, or
 - ii. Fail or refuse to furnish the Performance Security, in accordance with the Conditions of Contract.
3. We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - i. Our receipt of a copy of your notification of the name of the successful bidder; or
 - ii. Twenty eight days after the expiration of the tender.
4. We understand that if we are Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the Bid, and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all the future partners as named in the letter of intent.

Signed: *[Insert signature of the person whose name and capacity are shown]* in the capacity of *[insert legal capacity of person signing the Bid Securing Declaration]*

Name: *[Insert complete name of person signing the Bid Securing Declaration]*

Duly authorised to sign the bid for on behalf of: *[insert complete name of bidder]*

Date on _____ day of _____, _____ *[Insert date of signing]*

Framework Agreement

This Framework Agreement KEMSA/WB-CERP/NCB 01/2021-2023 is made for the supply of Manual Sars-Cov 2 RT-PCR detection kits *on the [insert: **number**] day of [insert: **month**], [insert: **year**]*

between

the Purchaser *Kenya Medical Supplies Authority* and

the Supplier *[insert name of the Supplier]*, a corporation incorporated under the laws of *[insert country of Supplier]* and having its principal place of business at *[insert Supplier's address]* (Supplier).

This Framework Agreement is subject to the provisions described in the Sections and Schedules listed below, and any amendments.

This Framework Agreement concludes a standing offer by the Supplier to supply the specified Goods to the Purchaser(s) during the Term of the Framework Agreement, as and when the Purchaser(s) wishes to purchase them, through a Call-off Contract.

The following documents shall be deemed to form and be read and construed as part of this Framework Agreement and, where indicated, to any Call-off Contract awarded under this Framework Agreement.

Framework Agreement Provisions

Schedule 1: Schedule of Requirements

Schedule 2: Price Schedules

Schedule 3: Security Forms

Schedule 4: Secondary Procurement

IN WITNESS whereof, the Parties to this Framework Agreement have caused this Framework Agreement to be executed in accordance with the laws of *[insert the name of the Framework Agreement governing law country]* on the day, month and year indicated above.

“For and on behalf of the Purchaser:”

For and on behalf of the Supplier:

Signed: [*insert signature of authorized representative(s) of the Supplier*]

Full name: [*name of person signing*]

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

In the presence of [*insert identification official of witness*]

Framework Agreement Provisions (FAP)

Framework Agreement Provision (FAP)	Description
<p>1. Definitions</p>	<p>1.1. The following words and expressions shall have the meanings hereby assigned to them</p> <ul style="list-style-type: none"> (a) “Bank” means the World Bank, meaning the International Bank for Reconstruction and Development (IBRD) and/or the International Development Association (IDA), whether acting on its own account or in its capacity as administrator of trust funds provided by other donors. (b) “Base Price” is the Framework Agreement (FA) unit price prior to any price adjustment in accordance with FA Provision FAP 8. (c) “Business Day” is any day that is an official working day of the Purchaser. It excludes the Purchaser’s official public holidays. (d) “Call-off Contract” is a contract awarded under a Framework Agreement, through a Secondary Procurement process, for the supply of Goods, and any Related Services. (e) “Closed Framework Agreement” is where no new firm(s) may conclude Framework Agreement(s) during the Term of the Framework Agreement. (f) “Commencement Date” is the date this Framework Agreement is signed by both parties, being the commencement of the Term. (g) “Contract Price” is the price payable to the Supplier as specified in each Call-off Contract, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract. (h) “Day” means calendar day. (i) “Goods” means all goods, materials, items, commodities, raw material, machinery, equipment, and/or other materials, as specified in the FA Provisions, that the Supplier is required to supply to the Purchaser under a

	<p>Call-off Contract. Where appropriate, for the purpose of interpretation, the definition for Goods includes Related Services.</p> <p>(j) “In Writing” means communicated or recorded in written form. It includes, for example: mail, e-mail, fax or communication through an electronic procurement system (provided that the electronic system is accessible, secure, ensures integrity and confidentiality, and has sufficient audit trail features).</p> <p>(k) “Incoterms” means the international commercial terms for goods published by the International Chamber of Commerce (ICC).</p> <p>(l) “Lead Purchaser”, when named in the Framework Agreement, means a party to the Framework Agreement, as a Purchaser in its own right under the framework agreement and as the agency responsible for the management and administration of the Framework Agreement for use by the other participating Purchasers as specified in the FAP 2.2. All communications, including notices, in relation to the Framework Agreement, are to be addressed to the Lead Purchaser. All communications, including notices, in relation to a Call-off Contract, are to be addressed to the Purchaser named in the Call-off Contract.</p> <p>(m) “Multi-User Framework Agreement” means a Framework Agreement where there is more than one Purchaser permitted to purchase through a Call-off Contract, as specified in the FAP 2.2;</p> <p>(n) “Purchaser” is the Borrower’s agency(ies) that is/are permitted to purchase Goods from a Supplier under a Call-off Contract awarded through a Framework Agreement. Where appropriate, for the purpose of interpretation of the Framework Agreement, the term Purchaser includes Lead Purchaser, or Responsible Agency.</p> <p>(o) “Purchaser’s Country” is the country specified in the FAP 2.3.</p> <p>(p) “Related Services” means the services incidental to the supply of the Goods, such as insurance, installation, training, initial maintenance and other such obligations of the Supplier, excluding inland transportation and other services required in the Purchaser’s Country to convey the Goods to their final destination.</p>
--	---

	<p>(q) “Responsible Agency”, when named in the Framework Agreement, is a party to the Framework Agreement, but only in its capacity as the agency responsible for managing and administering the Framework Agreement for use by the participating Purchasers. All communications, including notices, in relation to the Framework Agreement, are to be addressed to the Responsible Agency.</p> <p>(r) “Secondary Procurement” is the method used to select a Supplier and award a Call-off Contract under this Framework Agreement.</p> <p>(s) “Single-User Framework Agreement” means a Framework Agreement where there is only one Purchaser, as specified in the FAP 2.2.</p> <p>(t) “Supplier” means the person, private or government entity, or a combination of the above, who has concluded a Framework Agreement to supply to a Purchaser, from time to time, and as and when required, the Goods, and, if applicable, Related Services, under a Call-off Contract.</p> <p>(u) “Term” mean the duration of this Framework Agreement as described in the FAP2.4 starting on the Commencement Date. Where applicable, it includes any extension(s) to the initial Term, if permitted in the FA 2.5.</p>
<p>2. Framework Agreement Specific Information</p>	<p>2.1. This Framework Agreement relates to the purchase and supply, under separate Call-off Contracts, of Manual Sars-Cov 2 RT-PCR detection kits. The Goods, and Related Services, are more fully described in Schedule 1: Schedule of Requirements including, where applicable: list of Goods, list of Related Services, Technical Specifications, Drawings and Inspections and Tests.</p> <p>2.2. This is a Single-User Framework Agreement.</p> <p>2.3. The Purchaser’s Country is: Kenya</p> <p>2.4. The Framework Agreement and the Call-off Contracts shall be governed by and interpreted in accordance with the laws of “the Purchaser’s Country”.</p> <p>2.5. The Term of this Framework Agreement is Two years from the Commencement Date.</p> <p>2.6. The Term may be extended, at the Purchaser’s sole discretion, and where there has been satisfactory performance by the Supplier. To extend the Term, the Purchaser shall give the Supplier no less than three (3) months’ notice, In Writing, prior</p>

	<p>to the date on which the Framework Agreement would otherwise have expired. The total Term of the Framework Agreement shall be no longer than five (5) years.</p> <p>2.7. The edition of Incoterms that shall apply is: Incoterms 2020</p> <p>2.8. <i>[Price adjustment-FAP 8: Not applicable</i></p> <p>2.9. Any notice given by one party to the other pursuant to this Framework Agreement shall be In Writing using the quickest available method such as electronic mail with proof of receipt. A notice shall be effective when delivered, or on the notice’s effective date, whichever is later.</p> <p>The representatives for each party, who shall be the primary point of contact for the other party in relation to matters arising from this Framework Agreement, including notices, are specified below. Should the representative be replaced, the party replacing the representative shall promptly inform the other party In Writing of the name and contact details of the new representative. Any representative appointed shall be authorized to make decisions on the day to day operation of the Framework Agreement.</p> <p>2.10. Purchaser’s Representatives</p> <p>The name and contact details of the Purchaser’s Representative under this Framework Agreement, and the address for notices in relation to this Framework Agreement, are:</p> <p style="padding-left: 40px;">The Ag. Chief Executive Officer</p> <p style="padding-left: 40px;">Kenya Medical Supplies Authority (KEMSA) Commercial Street Building No. 13, Industrial Area P.O Box 47715-00100 Nairobi, Kenya Tel: 254 20 3922000</p> <p>2.11. Supplier’s Representatives</p> <p>The name and contact details of the Supplier’s Representative, for the purposes of this Framework Agreement, and the address for notices in relation to this Framework Agreement are:</p> <p>Name:</p> <p>Title/position:</p> <p>Address:</p> <p>Phone:</p> <p>Mobile:</p> <p>E-mail:</p>
<p>3. Framework</p>	<p>3.1. This Framework Agreement (FA) shall be read as a whole.</p>

<p>Agreement Documents</p>	<p>Where a document is incorporated by reference into this Framework Agreement, it shall be deemed to form, and be read and construed, as part of this Framework Agreement.</p> <p>3.2. This Framework Agreement comprises the following documents.:</p> <ul style="list-style-type: none"> (a) Framework Agreement, including all Sections and Schedules; (b) Notice of Conclusion of a Framework Agreement; and (c) Offer submission form (from Primary Procurement process).
<p>4. Supplier's Obligations</p>	<p>4.1. The Supplier shall offer to supply (standing offer) to the Purchaser, the Goods, including any Related Services if applicable, described in the Framework Agreement Schedule 1: Schedule of Requirements, for the Term of this Framework Agreement, in accordance with the terms and conditions stipulated in this Framework Agreement.</p> <p>4.2. The Supplier shall respond to a request from a Purchaser for quotation or direct contracting within the period specified in that request by either (i) submitting a quotation or (ii) accepting award of contract in case of direct selection or (iii) informing the Purchaser that it does not intend to supply the Goods and Related Services (if any) under the Call-off Contract.</p> <p>4.3. During the Term of the Framework Agreement, the Supplier shall continue to be eligible and qualified, and the Goods shall continue to be eligible, as per the qualification and eligibility criteria stipulated in the Primary Procurement process and the provisions of sub-paragraphs 4.4 (a) to 4.4 (c) below. The Supplier shall notify the Purchaser immediately, in writing, if it ceases to be qualified and/or ceases to be eligible, or the Goods cease to be eligible.</p> <p>4.4. The Goods supplied under Call-off Contracts that may be awarded by the Purchaser shall be:</p> <ul style="list-style-type: none"> (a) of the quality, type and as otherwise specified in the Framework Agreement, Schedule 1: Schedule of Requirements; (b) at the Contract Price specified in the Call-off Contract; and (c) in such quantities, at such times and to such locations as specified in the Call-off Contract. <p>4.5. At any point during Term of the Framework Agreement,</p>

	<p>should technological advances be introduced by the Supplier for the Goods offered for the Framework Agreement, the Supplier shall provide to the Purchaser of the Call-off Contracts the latest versions of the available Goods at the time of Call-off, having equal or better performance or functionality at no additional cost to the Purchaser.</p> <p>4.6. The Supplier agrees that this Framework Agreement and any additional provisions set out in a Call-off Contract, shall apply to the supply of Goods.</p> <p>4.7. Forced Labor</p> <p>The Supplier, including its Subcontractors, shall not employ or engage forced labor or persons subject to trafficking..</p> <p>Forced labor consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.</p> <p>Trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.</p> <p>4.8. Child Labor</p> <p>The Supplier, including its Subcontractors, shall not employ or engage a child under the age of 14 unless the national law specifies a higher age (the minimum age).</p> <p>The Supplier, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development.</p> <p>Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:</p> <ul style="list-style-type: none"> (a) with exposure to physical, psychological or sexual abuse; (b) underground, underwater, working at heights or in confined spaces; (c) with dangerous machinery, equipment or tools, or
--	--

	<p>involving handling or transport of heavy loads;</p> <p>(d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or</p> <p>(e) under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.</p> <p>4.9. Health and safety obligations</p> <p>The Supplier shall comply, and shall require its Subcontractors if any to comply, with all applicable health and safety regulations, laws, guidelines, and any other requirement stated in the Technical Specifications.</p>
<p>5. Continued Qualifications and Eligibility</p>	<p>5.1. The Supplier shall continue to have the nationality of an eligible country. A Supplier or subcontractor, shall be deemed to have the nationality of a country if the Supplier is constituted, incorporated or registered in, and operates in conformity with, the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be.</p> <p>5.2. All Goods and Related Services to be supplied under a Call-off Contract and financed by the Bank shall continue to have their origin in eligible Countries. For the purpose of this provision, origin means the country where the Goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components. Ineligible Countries, if any, are listed in FAP 5.5 below.</p> <p>5.3. To continue to be eligible the Supplier shall not have been sanctioned by the Bank, pursuant to the Bank’s Anti-Corruption Guidelines, and in accordance with its prevailing sanctions policies and procedures as set forth in the World Bank Group’s Sanctions Framework.</p> <p>5.4. The Purchaser may require, during the Term of the Framework Agreement, evidence of the Supplier’s continued qualification and eligibility, and the Goods continued eligibility. Failure to provide such evidence, as requested, may result in the Supplier being disqualified from participating in a Secondary Procurement process, and/or being awarded a Call-off Contract, and/or the termination of the Framework Agreement.</p> <p>5.5. At the present time, firms, goods and services from the</p>

	<p>following countries are excluded from this Framework Agreement as being ineligible.</p> <p><i>“none”</i></p>
<p>6. Role of Lead Purchaser or Responsible Agency</p>	<p>6.1. Where there is a Lead Purchaser or Responsible Agency that is a party to the Framework Agreement, their role is to manage and administer the Framework Agreement(s) for use by the participating Purchaser(s). All communications, including notices, in relation to the Framework Agreement are to be made to the Lead Purchaser or Responsible Agency.</p> <p>6.2. The Lead Purchaser or Responsible Agency is responsible for all matters pertaining to the Framework Agreement including, for example, amendments, suspension and termination of the Framework Agreement. For matters relating to individual Call-off Contracts, all communications, including notices, must be made to the Purchaser named in the Call-off Contract.</p> <p>6.3. Where no Lead Purchaser or Responsible Agency has been appointed, the named Purchaser is responsible for managing and administering the Framework Agreement and the provisions in FAP 2.9 above, in relation to communications and notices etc., apply to the Purchaser.</p>
<p>7. Contract Price</p>	<p>7.1. The Contract Price for each call-off Contract shall be determined by applying: <i>[modify as appropriate]</i></p> <p>For Direct Selection:</p> <p>the Base Price (unit price/s) stipulated in the Framework Agreement, Schedule 2, subject to any adjustments specified in FAPs 8 and 9; and any additional price for inland transportation and other services required in the Purchaser’s Country to convey the Goods to their final destination specified in Call-off Contract.</p>
<p>8. Adjustments for changes in Cost</p>	<p>8.1. Adjustments to the Base Price (unit prices) stipulated in the Framework Agreement</p> <p>The unit price/s offered by the Supplier, as stipulated in the FA, shall apply to all Call-off Contracts awarded during the Term of the FA. The unit price/s shall not be subject to any price adjustment during a Secondary Procurement, and/or an award of a Call-off Contract.</p>
<p>9. Adjustments for Changes in Laws</p>	<p>9.1. If after the date of 28 days prior to date of Offer submission for the Framework Agreement, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the</p>

	<p>Purchaser’s Country (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Base Price (unit price/s) stipulated in the Framework Agreement, then such unit price/s shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Framework Agreement. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with FAP 8.</p>
<p>10. Subcontractors</p>	<p>10.1. The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Call-off Contracts if not already specified in the Framework Agreement. Such notification, in the Framework Agreement or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Call-off Contract.</p>
<p>11. Warranty</p>	<p>11.1. The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.</p> <p>11.2. The Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.</p> <p>11.3. The Supplier shall comply with any additional warranty obligation specified in the Call-off Contracts.</p>
<p>12. Copyright</p>	<p>12.1. The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.</p>
<p>13. Patent Indemnity</p>	<p>13.1. The Supplier shall, subject to the Purchaser’s compliance with 13.2 below, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any</p>

	<p>patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:</p> <ul style="list-style-type: none"> (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and (b) the sale in any country of the products produced by the Goods. <p>Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.</p> <p>13.2. If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in 13.1 above, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.</p> <p>13.3. If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.</p> <p>13.4. The Purchaser shall, at the Supplier’s request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.</p> <p>13.5. The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.</p>
<p>14. Limitation of</p>	<p>14.1. Except in cases of criminal negligence or willful misconduct,</p>

<p>Liability</p>	<p>(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</p> <p>(b) Under each Call-off Contract, the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the Call-off Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser with respect to patent infringement.</p>
<p>15. Force Majeure</p>	<p>15.1. The Supplier shall not be liable for forfeiture of its Performance Security (if required), liquidated damages, 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 and/or a Call-off Contract is the result of an event of Force Majeure.</p> <p>15.2. For purposes of this provision, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, and freight embargoes.</p> <p>15.3. 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.</p> <p>15.4. If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other Party.</p>

<p>16. Language</p>	<p>16.1. The language of this Framework Agreement, and any Call-off Contract is English. Supporting documents and printed literature that are part of this Framework Agreement, and any Call-off Contract, may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of this Framework Agreement, and any Call-off Contract, this translation shall govern.</p> <p>16.2. The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.</p>
<p>17. Fraud and Corruption</p>	<p>17.1. The Bank requires compliance with the Bank's Anti-Corruption Guidelines and its prevailing sanctions policies and procedures as set forth in the World Bank Group's Sanctions Framework, as set forth in the Appendix to this Framework Agreement Provisions (Fraud and Corruption).</p> <p>17.2. The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the Primary or Secondary Procurement process or execution of a Call-off Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.</p>
<p>18. Records, inspections and audit</p>	<p>18.1. The Supplier shall keep, and shall make all reasonable efforts to cause its subcontractor(s), if any, to keep, accurate and systematic accounts and records in respect of this Framework Agreement, the Goods, and any Call-off Contract, in such form and details as will clearly identify relevant time changes and costs.</p> <p>18.2. Pursuant to paragraph 2.2 e. of the Appendix to the Framework Agreement, the Supplier shall permit and shall cause its agents (where declared or not), subcontractors, subconsultants, service providers, suppliers, and personnel, to permit, the Bank and/or persons appointed by the Bank to inspect the site and/or the accounts, records and other documents relating to the request for quotations process and/or execution of the Framework Agreement and/or any Call-off Contract. The Supplier's and its subcontractors attention is drawn to FAP 17 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Bank's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Bank's prevailing sanctions</p>

	procedures).
19. Confidential Information	<p>19.1. The Purchaser and the Supplier shall keep confidential and shall not, without the consent In Writing from the other, divulge to any third party any documents, data, or other information furnished directly or indirectly by either party in connection with the Framework Agreement.</p> <p>19.2. The obligation of a party under FAP 19. 1 above, shall not apply to information that:</p> <ul style="list-style-type: none"> (a) the Purchaser or Supplier need to share with the Bank or other institution(s) participating in the financing of a Call-off Contract (b) now, or in future, enters the public domain through no fault of that party (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
20. Change to the Framework Agreement	<p>20.1. Any change to this Framework Agreement, including an extension of the Term, must be in Writing and signed by both Parties. A change can be made at any time after this Framework Agreement has been signed by both Parties, and before it expires.</p>
21. Assignment	<p>21.1. The Supplier shall not assign, in whole or in part, its obligations under this this Framework Agreement and/or Call-off Contracts, without the prior written consent of the Purchaser.</p>
22. Termination of the Framework Agreement	<p>22.1. The Purchaser, without prejudice to any other remedy for breach of the Framework Agreement or Call-off Contract, may terminate this Framework Agreement immediately, by notice in Writing to the Supplier, if:</p> <ul style="list-style-type: none"> (a) in the judgement of the Purchaser, the Supplier has engaged in Fraud and Corruption, or (b) during the Term of the Framework Agreement, the Supplier ceases to be qualified or eligible, or (c) the Supplier purports to assign, or otherwise transfer or dispose of this Framework Agreement and/or Call-off Contract, in whole, or in part, without the prior written consent of the Purchaser, or

	<p>(d) the Supplier becomes bankrupt or otherwise insolvent, or</p> <p>(e) the Supplier fails to perform any other obligation under the Framework Agreement and/or any Call-off Contract.</p> <p>22.2. The Purchaser may terminate this Framework Agreement and/or any Call-off Contract, in whole or in part, by notice In Writing sent to the Supplier, at any time, for its convenience. The notice of termination shall specify that the termination is for the Purchaser’s convenience, the extent to which the performance of the Supplier under the Framework Agreement is terminated, and the date upon which such termination becomes effective.</p> <p>22.3. Upon expiry, or earlier termination of this Framework Agreement, all Call-off Contracts already entered into under this Framework Agreement shall continue in full force and effect. However, no further Call-off Contracts shall be awarded once the Framework Agreement is terminated.</p>
<p>23. Dispute resolution in relation to the Framework Agreement</p>	<p>23.1. In the case of a dispute arising out of, or in connection with this Framework Agreement, the Parties shall, in good faith, make every reasonable effort to communicate and cooperate with each other with a view to amicably resolving the dispute.</p> <p>23.2. Where parties have exhausted the process described in FAP 23.1, the parties may, by mutual agreement, nominate and refer the dispute to an adjudicator/mediator to assist in the resolution of the dispute. Parties will meet their own costs associated with such a referral, and split the costs of the adjudicator/. In appointing the adjudicator parties shall agree whether or not the adjudicator’s decision is to be final and binding.</p> <p>23.3. Further dispute resolution mechanism for Call-off contracts shall be as specified in the Call-off Contracts.</p>

Appendix to the Framework Agreement

Fraud and Corruption

(Text in this Appendix shall not be modified)

1. Purpose

1.1 The Bank's Anti-Corruption Guidelines and this annex apply with respect to procurement under Bank Investment Project Financing operations.

2. Requirements

2.1 The Bank requires that Borrowers (including beneficiaries of Bank financing); bidders (applicants/proposers), consultants, contractors and suppliers; any sub-contractors, sub-consultants, service providers or suppliers; any agents (whether declared or not); and any of their personnel, observe the highest standard of ethics during the procurement process, selection and contract execution of Bank-financed contracts, and refrain from Fraud and Corruption.

2.2 To this end, the Bank:

a. Defines, for the purposes of this provision, the terms set forth below as follows:

- i. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- ii. "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii. "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- iv. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- v. "obstructive practice" is:
 - (a) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (b) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 2.2 e. below.

- b. Rejects a proposal for award if the Bank determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- c. In addition to the legal remedies set out in the relevant Legal Agreement, may take other appropriate actions, including declaring misprocurement, if the Bank determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement process, selection and/or execution of the contract in question, without the Borrower having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- d. Pursuant to the Bank's Anti- Corruption Guidelines and in accordance with the Bank's prevailing sanctions policies and procedures, may sanction a firm or individual, either indefinitely or for a stated period of time, including by publicly declaring such firm or individual ineligible (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;¹ (ii) to be a nominated² sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project;
- e. Requires that a clause be included in bidding/request for proposals documents and in contracts financed by a Bank loan, requiring (i) bidders (applicants/proposers), consultants, contractors, and suppliers, and their sub-contractors, sub-consultants, service providers, suppliers, agents personnel, permit the Bank to inspect³ all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank.

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

² A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

³ Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

Appendix 1

Letter of Acceptance of the World Bank's Anti-Corruption Guidelines and Sanctions Framework

Date: _

Invitation of Bids/Proposals No. _____

To:

We, along with our sub-contractors, sub-consultants, service providers, suppliers, agents (whether declared or not) consultants and personnel, acknowledge and agree to abide by the World Bank's policy regarding Fraud and Corruption (corrupt, fraudulent, collusive, coercive, and obstructive practices), as set out and defined in the World Bank's Anti-Corruption Guidelines⁴ in connection with the procurement and execution of the contract (in case of award), including any amendments thereto.

We declare and warrant that we, along our sub-contractors, sub-consultants, service providers, suppliers, agents (whether declared or not), consultants and personnel, , are not subject to, and are not controlled by any entity or individual that is subject to, a temporary suspension, early temporary suspension, or debarment imposed by a member of the World Bank Group, including, inter alia, a cross-debarment imposed by the World Bank Group as agreed with other international financial institutions (including multilateral development banks), or through the application of a World Bank Group finding of non-responsibility on the basis of Fraud and Corruption in connection with World Bank Group corporate procurement. Further, we are not ineligible under the laws or official regulations of *[Insert name of Employer as per bidding document]* or pursuant to a decision of the United Nations Security Council.

We confirm our understanding of the consequences of not complying with the World Bank's Anti-Corruption Guidelines, which may include the following:

- a. rejection of our Proposal/Bid for award of contract;
- b. in the case of award, termination of the contract, without prejudice to any other remedy for breach of contract; and
- c. sanctions, pursuant to the Bank's Anti-corruption Guidelines and in accordance with its prevailing sanctions policies and procedures as set forth in the Bank's Sanctions Framework. This may include a public declaration of ineligibility, either

⁴*Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by International Bank for Reconstruction and Development Loans and the International Development Agency Credits and Grants*, dated October 15, 2006, and revised in January 2011 and July 2016, as they may be revised from time to time.

indefinitely or for a stated period of time, (i) to be awarded or otherwise benefit from a Bank-financed contract, financially or in any other manner;⁵ (ii) to be a nominated⁶ sub-contractor, consultant, manufacturer or supplier, or service provider of an otherwise eligible firm being awarded a Bank-financed contract; and (iii) to receive the proceeds of any loan made by the Bank or otherwise to participate further in the preparation or implementation of any Bank-financed project.

We understand that we may be declared ineligible as set out above upon:

- a. completion of World Bank Group sanctions proceedings according to its prevailing sanctions procedures;
- b. cross-debarment as agreed with other international financial institutions (including multilateral development banks);
- c. the application of a World Bank Group finding of non-responsibility on the basis of Fraud and Corruption in connection with World Bank Group corporate procurement; or
- d. temporary suspension or early temporary suspension in connection with an ongoing World Bank Group sanctions proceeding.

For avoidance of doubt, the foregoing effects of ineligibility do not extend to a sanctioned firm's or individual's execution of its ongoing Bank-financed contracts (or its ongoing sub-agreements under such contracts) that are not the subject of a material modification, as determined by the Bank.

We shall permit, and shall cause our sub-contractors, sub-consultants, agents (whether declared or not), personnel, consultants, service providers or suppliers, to permit the Bank to inspect⁷ all accounts, records, and other documents relating to the procurement

⁵ For the avoidance of doubt, a sanctioned party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and bidding, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

⁶ A nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider (different names are used depending on the particular bidding document) is one which has been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Borrower.

⁷ Inspections in this context are usually investigative (i.e., forensic) in nature: they involve fact-finding activities undertaken by the Bank or persons appointed by the Bank to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through

process and/or contract execution (in the case of award), and to have them audited by auditors appointed by the Bank.

We agree to preserve all accounts, records, and other documents (whether in hard copy or electronic format) related to the procurement and execution of the contract.

Name of the Bidder/Consultant: _____

Name of the person duly authorized to sign the Bid/Proposal on behalf of the Bidder/Consultant:

Title of the person signing the Letter: _____

the appropriate mechanisms. Such activity includes but is not limited to accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data, and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third-party verification of information.

Framework Agreement – Schedules

SCHEDULE 1: Schedule of Requirements

Manual Sars-Cov 2 RT-PCR detection kits

1.3.1 Detailed Technical Specifications and Standards

SARS COV-2 manual detection kits
Detection technology and sensitivity_

Specifications	Compliance to Technical Specifications (Yes/No)
1. The detection kit shall have at least Two (2) target genes that are specific for SARS-COV-2.	
2. If the kit has the E gene, it also shall have at least 2 other SARS-COV-2-specific genes excluding the S gene.	
3. If the kit has the S gene, it shall also have at least 2 other SARS-COV-2-specific genes excluding the E gene.	
4. Suppliers with kits based on sample release buffers for the extraction step shall only supply the detection kit.	
5. Kits that detect the RdRp as a target gene and any other two genes except E and/or S are preferred because the RdRp target encoded a core gene, The viral Reverse Polymerase that is less likely to be vulnerable to mutations like other gene such as the S gene.	
6. The detection kit must truly multiplexed i.e., all SARS-COV-2-specific genes shall be detected in a single tube in a single reaction (one-step RT-PCR detection technology). For Example, if the kit has the N and the RdRp genes, both genes must be detected in the same reaction tube in a single PCR reaction. Kits that require step-wise testing for different genes in different PCR reactions are not suitable.	
7. The detection kit shall be compatible with SARS-COV-2-RNA extracted using extraction kits based on either magnetic bead and spin-column extraction technology.	
8. The detection kit shall have appropriate negative and positive controls.	
9. The kit shall also contain an endogenous or exogenous internal control or both.	

Specifications	Compliance to Technical Specifications (Yes/No)
10. Viral copy detection threshold sensitivity shall be as low as 5.0×10^2 copies/ml	
11. The detection kit shall be based on Fluorescent Probe Technology compatible with most real-Time PCR machines such as ABI 7500, and Bio-Rad as reference equipment.	
12. The kit shall be ready for use without the need for software upgrade of the RT-PCR machine.	
13. In order to ensure ease of allocation and distribution to different labs, the kits shall be packed in maximum packs of 100 tests.	
14. Diagnostic sensitivity shall be between 98% to 100% when using ABI 7500, and Bio-Rad as reference equipment.	
15. Each kit shall have an inlay card detailing the bench protocol and all accessory reagents and/or equipment supplied with the kit and those needed but not supplied together with the kit.	
<u>Transport and storage conditions</u>	
1. Cold chain requirement shall not be below -20°C (only requiring dry ice transport). Kits stable at higher temperature are also admissible.	
2. The detection kit shall have a shelf life of at least 6 months from the time of delivery.	
3. The kit shall be stable for up to 3 days at $4-8^{\circ}\text{C}$.	
<u>Approvals</u>	
1. The detection kit must be approved by either FDA and/or WHO or both or by other stringent regulatory authorities recognized by WHO.	
2. The detection kit must be registered locally by the Pharmacy and Poisons Board after meeting necessary validation steps.	
3. The detection kit must be in use in the source country (provide proof)	
<u>Basis of evaluation</u>	
1. An original manufacturer's full catalogue or section (in English) showing the requested specifications and the following parameters; product mark of quality, name of manufacturer, country of origin.	
2. These parameters must be highlighted with a bright marker on the catalogue	

Specifications	Compliance to Technical Specifications (Yes/No)
3. A signed and stamped check list indicating that the kit presented in the bid meets all the specifications requested for.	
4. An original inlay card detailing the laboratory protocol for use of the kit by laboratory personnel.	
5. A signed and stamped check list of equipment and reagents required for the extraction but not provided by the supplier.	

Company Name: _____

Signed: _____

Stamped: _____

1.3.4 Inspection and Tests

The following inspections and tests shall be performed:

The Supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as required.

The inspections and tests may be conducted on the premises of the Supplier or the manufacturer, at point of delivery, and /or at the Goods' final destination, or in another place in Kenya. If conducted on the premises of the Supplier or the manufacturer, all reasonable facilities and assistance, including access to production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections to be conducted, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

- a) Said inspection and testing is for the Procuring Entity's account. In the event that inspection and testing is required prior to dispatch, the Goods shall not be shipped unless a satisfactory inspection and quality control report has been issued in respect of those Goods.
- b) The Supplier may have an independent quality test conducted on a batch ready for shipment. The cost of such tests will be borne by the Supplier.
- c) Upon receipt of the Goods at place of final destination, the Procuring Entity's representative shall inspect the Goods or part of the Goods to ensure that they conform to the condition of the Contract and advise the Procuring Entity that the Goods were received in apparent good order. The Procuring Entity 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.

Where the Supplier contests the validity of the rejection by the Procuring Entity or his representative, of any inspection as required above conducted before shipment or at ultimate destination, whether based on product or packing grounds, a sample drawn jointly by the Supplier and Procuring Entity 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 Procuring Entity 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;

The Procuring Entity may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

The Supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.

The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice.

The Supplier agrees that neither the execution of attest and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report, shall release the Supplier from any warranties or other obligations under the Contract.

SCHEDULE 3: Security Forms

Security Forms that may be required under Call-off Contracts

1. Performance Security

Performance Security

(Bank Guarantee)

[The bank, as requested by the Supplier, shall fill in this form in accordance with the instructions indicated]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: *[insert name and Address of Purchaser]*

Date: *[Insert date of issue]*

Performance Guarantee No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

Contract No.: *[insert Purchaser's reference for the specific Contract]*

We have been informed that _ *[insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into a Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the supply of _ *[insert name of contract and brief description of Goods and Related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (_____) *[insert amount in words]*,¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the Day of, 2...², and any demand for payment under it must be received by us at this office indicated above on or before that date.

¹ The Guarantor shall insert an amount representing the percentage of the contract Amount denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

² Insert the date twenty-eight days after the expected completion date specified in the Call-off Contract. The Purchaser shall note that in the event of an extension of this date for completion of the Contract, the Purchaser would need to request an extension of this guarantee from the

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

SCHEDULE 4: Secondary Procurement

This Section contains the methods and the criteria that the Procuring Agency shall use to conduct a Secondary Procurement process to select a Supplier and award a Call-off Contract under this Framework Agreement.

1. Secondary Procurement method(s)

The Secondary Procurement method that will apply to the selection of a Supplier for the award of a Call-off Contract under this Framework Agreement is:

- (i) Direct selection based on balanced division of supply.

The procedure for the application of the procurement methods outlined above is:

1.1 Direct selection based on balanced division of supply

1.2 The Purchaser will rotate the award of Call-off Contracts between the lowest and second lowest suppliers holding a Framework Agreement, based on a balanced division of supply linked to an upper limit. The upper limit is: *75,000 tests (782 Kits)*.

1.3 The Purchaser will issue a Call-off Contract using the prices/pricing mechanism set out in the Framework Agreement, Schedule 2 or as adjusted by the agreed price adjustment formula if applicable in accordance **with FAP 8**, and any changes in any Laws and Regulations in accordance with **FAP 9**.

The Purchaser will request the Suppliers and include in the Call-off Contract Price the prices for any additional inland transportation and other related services in the Purchaser's Country to convey the Goods to their final destination.

1.4 The Supplier shall be requested to inform the Purchaser, within the period indicated in the Purchaser's letter, if it does not intend to enter into a Call-off Contract.

2. Formation of Call-off contract

The Purchaser shall confirm that the selected Supplier continues to be qualified and eligible in accordance with Framework Agreement prior to the formation of the Call-off Contract. The Call-off Contract is formed when one of the following conditions are met depending on the method of selection used for the Secondary procurement.

2.1 **For direct selection based on location or balanced division of supply**, the Call-off contract is formed when the Purchaser transmits, to the successful Supplier, a Call-off Contract for signature and return, and the Call-off Contract is signed by both the Purchaser and the Supplier. The date that the Call-off Contract is formed, is the date that the last signature is executed, or the date agreed by the parties.

3. Communicating the award of Call-off Contract

The Purchaser shall, at the same time as awarding the contract, communicate the award of the Call-off Contract in the case of:

- a. Direct Selection to all FA Suppliers for the items included in the Call-off Contract.

The communication must be by the quickest means possible, e.g. by email, and include, as a minimum, the following information:

- a. the name and address of the successful Supplier
- b. the quantity/volume of Goods being procured
- c. the contract price
- d. a statement of the reason(s) the recipient Supplier was unsuccessful.]

4. Complaint about award of Call-off Contract

An unsuccessful Supplier may complain about the decision to award a Call-off Contract. In this case the process for making a complaint is as follows:

- a. the complaint shall be made in writing to the Purchaser, by the quickest means available, e.g. email
- b. the Purchaser will address the complaint within a reasonable time
- c. the receipt of a complaint does not prohibit the award of the Call-off Contract, and no standstill period or pause in process shall apply.

Sample Letter of Award of Call-off Contract

[modify as appropriate]

[use letterhead paper of the Purchaser]

[date]

To: *[name and address of the Supplier]*

Subject: **Notification of Award of Call-off Contract No.**

In reference to the Framework Agreement *[insert reference number and date]*

*[For mini-competition, add the following: “and your Quotation *[insert reference number and date]* has been accepted.”]*

please find enclosed herewith the Call-off Contract. You are requested to sign the Call-off contract within *[insert no of days]*.

[Deleteif Performance Security is not required: “You are also requested to furnish a Performance Security within *[insert no of days]*, using for that purpose the Performance Security Form attached to the Framework Agreement”]

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Call-off Contract

Call-off Contract for the supply of Goods and Related Services *[if any]*

Framework Agreement (FA):	<i>[insert short title of FA]</i>
FA Date:	<i>[insert FA date]</i>
<i>FA reference number:</i>	<i>[insert FA reference number]</i>
Goods:	<i>[short title for type of Goods]</i>
The Project Site(s)/Final Destination(s) is/are:	<i>[Insert information on the location(s) of the site(s), where applicable]</i>
Site of inspections and tests	<i>[Insert information, where applicable]</i>

Purchaser:	Supplier:
<i>[Insert complete legal name of the Purchaser]</i> [address]	<i>[Insert complete legal name of the Supplier]</i> [address]

GOODS

Code	Product name	Quantity	Unit price	Total
<i>[insert code]</i>	<i>[description of Goods]</i>	<i>[number]</i>	<i>[price]</i>	<i>[amount]</i>
Special instructions/comments:			Total	<i>[Insert amount]</i>
Required Delivery period/s as per INCOTERMS		<i>[insert period/s]</i> as per		

	applicable INCOTERMS	
--	-------------------------	--

RELATED SERVICES				
Code	Name/description of service	Quantity	Price	Total
[insert code]	[Describe the Related Services covered and/or Framework Agreement Schedule 1: Schedule of Requirements. The price quoted in Schedule 2 of the Framework Agreement or as agreed with the selected Supplier shall be included in the Contract Price.]	[number]	[price]	[amount]
Special instructions/comments:		Total		[insert amount]
Required Completion period		[insert period]		

1. Contract Price

The Contract Price for the supply of Goods, and provision of related Services (if applicable) is as follows

Description	Amounts and currency/ies [insert total amounts from preceding two tables]
Goods	
Related Services [if applicable]	
Contract Price: [insert total for Goods and Related Services [if applicable]	

2. Contract Documents

The following documents shall be deemed to form and be read and construed as part of this Call-off Contract. This Call-off Contract shall prevail over all other contract documents.

- (a) Letter of Award of Call-off Contract
- (b) Supplier's Quotation (if applicable)

(c) Addenda No. ____ (if any)

(d) Call-off Contract- Conditions of Contract

and by reference the following documents:

(e) Framework Agreement

(f) Schedule 1: Schedule of Requirements *[insert relevant items from schedule 1 as applicable to the Call-off contract such as technical specifications, any drawings, and inspection and tests]*

(g) *[List any other document]*

3. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Call-off Contract, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier 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.

[To facilitate this emergency procurement, if acceptable to the Purchaser and the Supplier, electronic signature of the Call-off Contract such as using DocuSign is recommended.]

For and on behalf of the Purchaser

Signed: *[insert signature]*

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

In the presence of *[insert identification of official witness]*

Date: _____

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*

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

in the presence of *[insert identification of official witness]*

Date: _____

Call-off Contract- Conditions of Contract (CoC)

The following Call-off Contract Conditions of Contract apply to the Call-off Contract awarded under the Framework Agreement between the Purchaser and the Supplier.

1. Standards and Specifications

The Goods and Related Services if applicable shall conform to the technical specifications and standards mentioned in the Technical Specifications and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.

2. Packing, Marking and Documentation

The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, 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 heavy handling facilities at all points in transit.

The packing, marking and documentation within and outside the packages shall be: *[insert the type of packing required, the markings in the packing and all documentation required; or refer to the Technical Specifications]*

3. Transportation

Responsibility for transportation of the Goods shall be as specified in the applicable Incoterms specified in the Framework Agreement.

4. Terms of Payment

The method and conditions of payment to be made to the Supplier under the Call-off Contract shall be as follows:

The Purchaser shall process the payments using the Direct Payment disbursement method, as defined in the World Bank's Disbursement Guidelines for Investment Project Financing.

One Hundred percent (100%) of the Contract Price of Goods received shall be paid within sixty (60) days of receipt of the Goods upon submission of an invoice (showing Purchaser's name; the Contract number, grant number; description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser, delivery notes and Goods Received Notes.

5. Performance Security

The Supplier shall provide a performance security for the performance of the Contract, within the period stated in the Letter of Award of Call-off, using for that purpose the Performance Security Form attached to the Framework Agreement.

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.

The amount of the Performance Security shall be 10% of the Contract Price denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser. The Performance Security shall be in the form attached to the Framework Agreement.

The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than fourteen (14) days following the date of Completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise.”]

6. Taxes and Duties

For Goods manufactured outside the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's Country.

For Goods Manufactured within the Purchaser's Country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

7. Insurance

The insurance coverage shall be as specified in the applicable Incoterms specified in the Framework Agreement

8. Warranty

In addition to the general warranty obligations specified in the Framework Agreement:

The warranty shall remain valid for 12 months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination.

The period for repair or replacement after being notified of the defect by the Purchaser shall be 14 days. If having been notified, the Supplier fails to remedy the defect within this period, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

For purposes of the warranty, the place(s) of final destination(s) shall be as stated in this Call-off Contract.

9. Liquidated Damages and Bonuses

Except as provided for under the Framework Agreement under Force Majeure, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to

all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages

The liquidated damage shall be 0.5% of the price of the delayed Goods or unperformed Services] for each week or part thereof of delay until actual delivery or performance.

The maximum amount of liquidated damages shall be 10% of the Contract Price. Once the maximum is reached, the Purchaser may terminate the Call-off Contract pursuant to the Framework Agreement provision on Termination.

Change Orders and Contract Amendments

The Purchaser may at any time order the Supplier through notice, to make changes within the general scope of the Call-off Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Call-off Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

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 Call-off Contract Price or in the Delivery/Completion schedule, or both, and the Call-off Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Call-off Contract 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.

10. Extensions of Time

If at any time during performance of the Call-off Contract, the Supplier or its subcontractors shall encounter conditions impeding timely delivery of the Goods or completion of Related Services, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. 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, in which case the extension shall be ratified by the parties by amendment of the Contract.

Except in case of Force Majeure, as provided for in the Framework Agreement, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages specified above, unless an extension of time is agreed upon.

11. Dispute Resolution in relation to Call-off Contract

As stated in the FA provisions, the Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation and if needed using an adjudicator, any

disagreement or dispute arising between them under or in connection with the Call-off Contract.

If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation and adjudication if used, 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. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this provision shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified below.

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.

(a) Contract with foreign Supplier:

All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

(b) 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.

REGISTRATION FORM

Tender No. KEMSA/WB-CERP/NCB 01/2021-2023 Supply of Manual Sars-Cov 2 RT-PCR detection kits

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

Name of the firm:.....

Postal Address:.....

Telephone Contacts:.....

Company email address:.....

Contact Person:.....

Once completed please submit this form to the email below;

Email: procurement.programs@kemsa.co.ke

Evaluation Criteria

(A) PRELIMINARY EXAMINATION

Required documents

1. Supplier offer form **completed and signed** by the tenderer or his authorized agent (Mandatory)
2. Tender Securing declaration duly signed and stamped (Mandatory)
3. Letter of Acceptance of the World Bank's Anti-Corruption Guidelines and Sanctions Framework duly signed and stamped (Mandatory)
4. Copy of Certificate of Incorporation/Registration (Mandatory)
5. Copy of current Tax Compliance Certificate for local bidders (Mandatory)
6. Pagination of documents.

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

(B) TECHNICAL EVALUATION - DOCUMENTS EXAMINATION

Bidders are required to submit the following documents:

1. Must provide duly signed Manufacturer's Authorization letter (if Tenderer is not a Manufacturer) (MANDATORY).
2. Copy of approval by either FDA and/or WHO or both or by other stringent regulatory authorities recognized by WHO (MANDATORY).
3. Copy of Registration and/or retention Certificate from Pharmacy and Poisons Board after meeting necessary validation steps (MANDATORY).
4. Provide proof that the detection kits are in use in the source country.

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

(C) PRODUCT EVALUATION – MANUFACTURER'S BROCHURE

1. An original manufacturer's full catalogue or section (in English) showing the requested specifications and the following parameters; product mark of quality, name of manufacturer, country of origin.
2. These parameters must be highlighted with a bright marker on the catalogue
3. A signed and stamped compliance sheet list indicating that the kit presented in the bid meets all the specifications requested for.
4. An original inlay card detailing the laboratory protocol for use of the kit by laboratory personnel.

5. A signed and stamped check list of equipment and reagents required for the extraction but not provided by the supplier.

Non-compliance to the above requirements will amount to non-responsiveness of the bid and disqualification from further evaluation.

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

(D) FINANCIAL EVALUATION

Tenderers who are successful at preceding stages will have their prices and delivery period compared and award recommended to the lowest evaluated responsive bid.

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

(E) POSTQUALIFICATION REQUIREMENTS

After determining the lowest-evaluated bid, the recommended bidders shall be subject to post-qualification examination as per Conditions of Contract clause 30.