




**PUBLIC PROCUREMENT REGULATORY AUTHORITY  
(PPRA)**

**GUIDELINES FOR  
APPLICATION OF PREFERENCE SCHEME IN PUBLIC  
PROCUREMENT, 2025**

**JANUARY 2025**

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## GUIDELINES FOR APPLICATION OF PREFERENCE SCHEME IN PUBLIC PROCUREMENT, 2025

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## **ABBREVIATIONS AND ACRONYMS**

AAT	-	Average Annual Turnover
APP	-	Annual Procurement Plan
AQRB	-	Architects and Quantity Surveyors Registration Board
BRELA	-	Business Registrations and Licensing Agency
Cap	-	Chapter
CRB	-	Contractors Registration Board
ES	-	Environmental or Social
ERB	-	Engineers Registration Board
ESMP	-	Environmental Social Management Strategy and Implementation Plan
EXW	-	Ex-Works
LGAs	-	Local Government Authorities
JV	-	Joint Venture
JVCA	-	Joint Venture Consortium or Association
NeST	-	National Electronic Procurement System of Tanzania
NIDA	-	National Identification Authority
PEs	-	Procuring Entities
PMU	-	Procurement Management Unit
PPRA	-	Public Procurement Regulatory Authority
TZS	-	Tanzania Shillings
TAESA	-	Tanzania Employment Services Agency
US\$	-	United States Dollar

## DOCUMENT VERSION CONTROL

<b>Name of the Document</b>	Guidelines for the Application of Preference Scheme in Public Procurement
<b>Version</b>	Second Release, January 2025
<b>Document Number</b>	PPRA/PSCD/MPS/25/05
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<b>Developed by</b>	PPRA Management
<b>1<sup>st</sup> Approval (First Issue)</b>	PPRA Board of Directors, January 2025
<b>Applicability</b>	Procuring Entities, Tenderers
<b>Purpose</b>	To guide PEs on how to meet the requirements of Sustainable Public Procurement through the application of preference schemes as provided for under PPA, Cap. 410 and its Regulations
<b>It is part of</b>	Public Procurement Guidelines
<b>Related Documents</b>	PPA, CAP 410, PPR, GN 518 of 2024,
<b>Distribution</b>	PPRA Board, PPRA Management, PEs and Tenderers

## ***Guidelines for Application of Preference Schemes in Public Procurement, 2025***

<b>INTRODUCTION</b>		
1.	<b><i>Background</i></b>	<p>1.1 Pursuant to Section 130 of the Public Procurement Act, Cap 410, the Public Procurement Regulatory Authority (PPRA) is mandated to issue Guidelines for the better carrying out of the objectives or any functions under the Act.</p> <p>1.2 Pursuant to Section 5(2)(b), all procurement, supply and disposal shall be conducted in a manner that maximizes integrity, competition, accountability, sustainability, economy, efficiency and transparency. Further Pursuant to Section 5(3)(c) Procuring entities shall, in the execution of their duties, undertake to achieve the highest standards of equity, taking into account promotion of local industry, sustainable development and protection of the environment.</p> <p>1.3 Sustainable Public Procurement Consists of economic, social and environmental pillars, of which Promotion of micro, small and/or medium sized enterprises falls under economic Pillar;</p> <p>1.4 Pursuant to regulation 38 (4) of the Public Procurement Regulations, 2024, PPRA is required to issue Guidelines for the application of preferences to local persons or firms. Sections 56, 57, 58, 59, 60, 61, 62 and 63 of Cap. 410, require Procuring Entities (PEs) to provide preference to local persons, firms, and goods manufactured, produced or mined in Tanzania.</p> <p>1.5 Following the above legal requirement, PPRA hereby issues these Guidelines for application of preference schemes in public procurement by PEs.</p>
2.	<b><i>Short Title</i></b>	<p>2.1 These Guidelines shall be cited as the Guidelines for Application of Preference Schemes in Public Procurement, 2025.</p>



3.	<b>Purpose</b>	<p><b>3.1 General Purpose</b></p> <p>To guide PEs on how to meet the requirements of Sustainable Public Procurement through the application of preference schemes as provided for under Cap. 410 and its Regulations.</p> <p><b>3.2 Specific Purpose</b></p> <p>a) to provide guidance on procedures to be followed by PEs when applying preference schemes in procurement process.</p> <p>b) to ensure consistency in the application of preferences in public procurement.</p>
4.	<b>Application</b>	<p>4.1 These Guidelines shall come into force from the date of approval by the Board of Director of the Authority.</p> <p>4.2 These Guidelines shall be used when applying preferences to procurement carried out under;</p> <p>a) open competitive methods using National and International Competitive methods;</p> <p>b) procurement whose value is up to 50 billion;</p> <p>c) procurement under regional exclusive preference;</p> <p>d) Joint Venture, Partnership and sub-contracting arrangements;</p> <p>e) Award to foreign firms which require sub-contracting arrangements before signing of the contract; and</p> <p>f) Preference to goods manufactured, produced or mined in United Republic.</p> <p>4.3 These Guidelines shall not apply on preferences to promote the participation of special groups in public procurement. Preferences for special groups shall be as provided for in the Guidelines for Participation of Special Groups in Public Procurement, 2025 issued by PPRA.</p>
5.	<b>Interpretation</b>	<p><b>In these Guidelines, unless the context otherwise requires:</b></p> <p><b>“Board”</b> means the Board of Directors of the Public</p>

		<p>Procurement Regulatory Authority established under section 22 of PPA, CAP 410.</p> <p><b>“Contract”</b> means a binding agreement entered into between a procuring entity and a tenderer as a result of procurement proceedings.</p> <p><b>“Foreign Firm”</b> means a firm whose majority share capital is owned by foreign citizens;</p> <p><b>“Foreign tenderer”</b> means a firm whose majority share capital is owned by a foreign citizen;</p> <p><b>“Government”</b> means the Government of the United Republic of Tanzania;</p> <p><b>“Local Goods”</b> means goods manufactured, mined or produced in United Republic and related services there to;</p> <p><b>“Lowest Evaluated Tender”</b> means the price offered by a tenderer that is found to be responsive after consideration of all relevant factors and the calculation of any weight for these factors, provided that such factors have been specified in the tender documents;</p> <p><b>“Local Industry”</b> means any licensed industry located within the United Republic of Tanzania;</p> <p><b>“Local Firm”</b> means a firm whose majority share capital is owned by citizens of the United Republic of Tanzania;</p> <p><b>“Partnership”</b> means the relationship which subsists between persons carrying on business in common with a view of profit;</p> <p><b>“Paid-up Share”</b> means a share for which a shareholder has paid in full;</p> <p><b>Provisional Sum</b> means a sum provided for work or for costs which cannot be Entirely foreseen, defined or detailed at the time the tendering Documents are issued;</p>
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		<p><b>“Prime Cost”</b> means a sum provided for Works or services to be executed by a nominated sub-contractor, a statutory authority or a public undertaking or for materials or goods to be obtained from nominated supplier. Such a sum shall be deemed to be exclusive of any profit required by the general Contractor and provision shall be made for the addition thereof;</p> <p><b>“Project”</b> means any undertaking that has a beginning and an end and that is aimed at achieving a particular set objective;</p> <p><b>“Procuring Entity”</b> means a public body or any other body, or unit established and mandated by the government to carry out public functions;</p> <p><b>“Public Assets”</b> means any property owned by the public body tangible and intangible, including but not limited to physical property, land, shares or proprietary rights;</p> <p><b>“Public Finances”</b> means monetary resources appropriated to procuring entities through budgetary processes, including the Consolidated Fund, grants, loans and credits put at the disposal of the procuring entities by local or foreign donors and revenues generated by the procuring entities;</p> <p><b>“Registrar”</b> means the Registrar under the Business Names (Registration) Act, Cap. 213 or Companies Act, Cap. 212;</p> <p><b>“Regulations”</b> means the Public Procurement Regulations, 2024 (GN. No. 518 of 2024);</p> <p><b>“Regional preference”</b> means a preference given to suppliers, contractors and service providers operating their businesses within a Region in Tanzania</p> <p><b>“Subcontracting”</b> means a legally binding agreement between a main contractor/service provider/consultant and a local firm/local person to perform part of the obligation of the main contractor’s contract with the procuring entities.</p>
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		<p><b>“Tenderer”</b> means any natural or legal person or group of such persons participating or intending to participate in procurement proceedings with a view to submitting a tender in order to conclude a contract and includes a supplier, contractor, service provider or asset buyer;</p>
<b>ELIGIBILITY</b>		
6.	<b><i>Eligibility for Preferences</i></b>	<p>6.1 A person or a firm is qualified to benefit from the national preference schemes if that person or firm meets the criteria as specified below: -</p> <p>(1) for individual firms: -</p> <ul style="list-style-type: none"> <li>a) Should be incorporated or registered in the United Republic and possess the following: <ul style="list-style-type: none"> <li>i. Company Registration Number;</li> <li>ii. Company Registration Certificates/certificate of incorporation;</li> <li>iii. Valid Business Licenses;</li> <li>iv. Valid Sector-Specific Licenses, where applicable;</li> <li>v. Tax Clearance Certificate; and</li> <li>vi. Valid Permits, where applicable, issued by relevant authorities for its operations.</li> </ul> </li> <li>b) The majority of the paid-up share capital of the company is owned either by the Government or by citizens of Tanzania. the Shareholding Structure of the individual firms should be ascertained through the annual returns forms or audited financial statement submitted to the registrar of companies to confirm whether the majority of paid-up shares are held by the Government or citizens of Tanzania.</li> <li>c) That no arrangement of any major part of the net profits or other tangible benefits of the local firms will accrue or be paid to persons who are not citizens of Tanzania or to companies which would not be eligible for preference. the following should reviewed: <ul style="list-style-type: none"> <li>i. Profit Sharing Agreements, contracts, and any other arrangements to ensure</li> </ul> </li> </ul>

		<p>they comply with the requirement;</p> <p>ii. Dividend distribution Policies to confirm if the majority of the profits are retained locally; and</p> <p>iii. Information on the Declaration of Beneficial Ownership.</p> <p>(2) for Joint Ventures of local firms:-</p> <p>a) individual member companies are incorporated or registered in the United Republic;</p> <p>b) majority of the paid-up share capital of the individual companies are held by citizens of Tanzania;</p> <p>c) the joint venture itself is registered in Tanzania by relevant Authorities;</p> <p>d) the individual do not have arrangement whereby any major part of the net profits will accrue or be paid to persons who are not citizens of Tanzania or to companies which would not be eligible for preference.</p> <p>(3) For partners or individual persons trading as contractors or consultants the majority of shares are held by citizens of Tanzania. The PE should review:</p> <p>a) an Extract of Partnership Deed from the Registrar to confirm ownership and whether the majority of shares are held by citizens of Tanzania;</p> <p>b) Individual Identity through citizen identity card or number to confirm the identities of the owners;</p> <p>c) Business Registration certificates;</p> <p>d) Valid Business Licenses;</p> <p>e) Sector-Specific Licenses,</p> <p>f) Valid Permits issued by relevant authorities for its operations; and</p> <p>g) Occupational health and Safety compliance license</p>

		<p>6.2 For the purpose of sub-clause 6.1 (2) (c), a JV shall possess the following;</p> <ul style="list-style-type: none"> <li>a) Letter of Intent or an Approval letter from competent authority as the case may be to form Joint Venture (JV) accompanied with a draft JV Agreement or a JV Agreement showing roles and responsibilities of each party and Profit/Liabilities Sharing arrangement(s).</li> <li>b) Registration of existing JV from competent authorities where appropriate;</li> <li>c) Individual firms forming the JV should be individually registered by relevant authorities as per sub-clause 6.1 (1) (a).</li> </ul>
<b>PREFERENCE SCHEMES AND THRESHOLDS</b>		
7.	<b><i>National Preferences</i></b>	<p>7.1 PEs must give National preferences when procuring goods, works and services to Local Persons or Firms or JV between local and foreign firms and for goods manufactured, mined, extracted or grown in the United Republic of Tanzania.</p> <p>7.2 Tenderers who are local persons or firms or JV between local and foreign firms, shall be eligible to be granted a margin of preference if they meet the criteria provided in clause 6 of these Guidelines.</p> <p>7.3 The margin of preference shall be granted as follows;</p> <ul style="list-style-type: none"> <li>a) Margin of preference shall be 10% to local contractors, service providers or consultant</li> <li>b) 8% to JV where the input of foreign contractors, service providers or consultants is between 26 - 49%;</li> <li>c) 10% to JV where the input of foreign contractors, service providers or consultants is between 0 – 25%.</li> </ul> <p>7.4 The tendering documents shall clearly indicate the preference and the method that will be followed in the evaluation and comparison of tenders to give effect to</p>

		<p>such preference.</p> <p>7.5 After tenders have been received and reviewed by the PE, responsive tenders shall be classified into the following groups:</p> <ul style="list-style-type: none"> <li>a) <b>Group A:</b> Tenders offered by local contractors, service providers or consultant;</li> <li>b) <b>Group B:</b> Tenders offered by JVC of local and foreign contractors, service providers or consultant meeting the criteria under clause 6 of these Guidelines; or</li> <li>c) <b>Group C:</b> Tenders offered by foreign contractors, service providers or consultant.</li> </ul> <p>7.6 PE shall review submitted details of ownership and such other information as shall be required to determine whether a supplier/contractor or a group of suppliers/contractors are qualified for a margin of preference.</p> <p>7.7 The PE shall first evaluate and compare all responsive tenders with a view to determine the lowest evaluated tender within each group.</p> <p>7.8 The lowest evaluated tenders in each group shall then be compared with each other, and if as a result of this comparison, a tender from Group A or Group B is the lowest, it shall be selected for the award.</p> <p>7.9 If a tender from Group C is the lowest, all tenders from Group C shall then be further compared with the lowest evaluated tender from Group A and B.</p> <ul style="list-style-type: none"> <li>(a) an amount equal to the specified margin of preference for Group A shall be added to the tender price received from the Tenderer in Group C; and</li> <li>(b) an amount equal to the difference between the margin of preference for Group A and Group B shall be added to the tender price received from the Tenderer in Group B.</li> </ul>

		<p>7.10 If the Tender from Group A or B is the lowest, it shall be selected for award. If not, the lowest evaluated tender from Group C shall be selected.</p>
8.	<p><b><i>Exclusive preference to local persons or firms</i></b></p>	<p>8.1 The procurement of works, goods, or services with a value not exceeding TZS 50,000,000,000 shall be reserved exclusively for local persons or firms.</p> <p>8.2 A foreign firm may participate in tenders set aside for exclusive preference only if it forms a JV with a local firm, where the contribution of the local firm to the JV is 75%. Where PE receives only one acceptable offer from a local person or firm in response to procurement set aside for Regional Preferences, the PE may consider making an award to that person or firm.</p> <p>8.3 Where a procurement contract originally intended for local firms but no acceptable offers are received, the tender may be awarded to a foreign tenderer who shall be required to subcontract to a local firm for an amount not exceeding 30% and not less than 5% of the total contract value</p> <p>8.4 In applying exclusive preference to local suppliers, contractors, consultants or service providers, a procuring entity shall ensure that the selected person or firm meets the eligibility criteria provided for under clause 6 of these Guidelines.</p>
9.	<p><b><i>Preference to local goods</i></b></p>	<p>9.1 Procuring entities shall grant a margin of preference of 15% to goods manufactured, mined or produced in United Republic and related services there to in contracts awarded on the basis of international competitive tendering or national competitive tendering.</p> <p>9.2 The PE shall indicate in the tender documents the requirement for the supplier of goods to give priority to goods that are manufactured, mined or produced within the United Republic.</p>



		<p>9.3 The PE shall indicate in tender and contract documents for works and services to give priority to procure goods that are manufactured, mined or produced within the United Republic while implementing the contract.</p> <p>9.4 List of goods that are manufactured, mined or produced within the United Republic shall be as published by PPRA in the National electronic Procurement System of Tanzania (NeST).</p> <p>9.5 If the PE procures goods that are not manufactured, produced, or mined within the United Republic as per list published by the PPRA, within five working days after awarding the contract, it shall submit to the Authority a report detailing the reasons for not purchasing goods manufactured, produced, or mined within the United Republic.</p> <p>9.6 For the purpose of granting a preference to local goods, Tenders will be classified in one of three groups, as follows:</p> <p>a) <b>Group A:</b> Tenders offering goods manufactured, mined or produced within the United Republic, for which:</p> <ul style="list-style-type: none"> <li>i) labor, raw materials, and components originate from within the United Republic account for more than thirty (30%) percent of the EXW price of the goods offered; and</li> <li>ii) the production facility in which they will be manufactured, assembled or processed has been engaged in manufacturing, assembling or processing such goods at least since the time of tender submission.</li> </ul> <p>b) <b>Group B:</b> All other tenders offering goods manufactured within the United Republic, for which labor, raw materials, and components originate</p>
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		<p>within the United Republic account for less than thirty (30%) percent of the EXW price of the goods offered.</p> <p>c) <b>Group C:</b> Tenders offering goods from overseas which are to be directly imported.</p> <p>9.7 Evaluation of tenders shall be done as per clause 36.2 of these Guidelines.</p>
10.	<b>Regional Preferences</b>	<p>10.1 Regional Preferences shall include preferences to Regional and Local Government Authorities (LGAs) within the region.</p> <p>10.2 When applying regional preferences, priority shall be given to local suppliers, contractors or service providers who are available within their respective villages, wards, councils, and regions.</p> <p>10.3 Regional preferences to local suppliers, contractors or service providers shall be applicable to tenders whose values are:</p> <ul style="list-style-type: none"> <li>a) Works up to TZS 1,000,000,000.00;</li> <li>b) Goods up to TZS 200,000,000.00;</li> <li>c) Non-Consultancy Services up to TZS 200,000,000.00; and</li> <li>d) Consultancy services up to TZS 200,000,000.00.</li> </ul> <p>10.4 Where PE receives only one acceptable offer from a local person or firm in response to procurement set aside for Regional Preferences, the PE may consider making an award to that person or firm.</p> <p>10.5 Where PE receives no acceptable offers from the regional local persons or firms and if the requirements are still valid, new offers may be solicited on an unrestricted basis.</p> <p>10.6 PEs shall use appropriate procurement methods that adhere to the regional preference thresholds indicated in Clause 10.3 of these Guidelines.</p>

		<p>10.7 The use of competitive quotation procurement methods (national shopping) for goods, non-consultancy services and works, shall be restricted to a region provided that the procurement value does not exceed thresholds for regional preferences indicated in Clause 10.3 of these Guidelines.</p>
<b>JOINT VENTURE, SUBCONTRACTING, AND PARTNERSHIP</b>		
<b>A: JOINT VENTURE</b>		
11.	<b><i>Application of Joint Venture</i></b>	<p>11.1 Part A on Joint Venture (JV) shall apply to all tenders under exclusive preference and tenders set aside for capacity building to local tenderers and shall not apply to JVs formed in tenders with thresholds above TZS 50,000,000,000.00.</p> <p>11.2 Local firms or persons may form JV with other local firms or persons for the purpose of participating in tenders set aside exclusively for local firms or persons for capacity building.</p> <p>11.3 If the JV formed between local firms or persons lacks the capacity to participate in the tenders reserved for capacity building, their JV may enter into a JV with a foreign company for the same.</p> <p>11.4 Formation of JV between the local firms and a foreign firm, the contribution of the local firm in the JV shall not be less than seventy-five percent (75%) and the local firm shall be the lead firm in that particular tender.</p>
12.	<b><i>Formation of a Joint Venture</i></b>	<p>12.1 Tenderers intending to participate in tender for goods, works, consultancy and non-consultancy services may form a Joint Venture (JV) for the purposes of enhancing capacity and competitiveness for tendering purposes;</p> <p>12.2 The JV may be formed between two or more local firms only or between a local or local firm(s) or a local JV and a foreign company</p>

		<p>12.3 The parties to the JV may contribute capital, labor, assets, skills, experience, knowledge, or other resources useful for the implementation of the contract or project.</p> <p>12.4 In order to qualify for participating in the tender process for goods, works, consultancy and non-consultancy services or being awarded a contract, any established JV shall be registered in Tanzania by competent authorities where appropriate;</p> <p>12.5 The local firm forming part of the JV shall be registered in Tanzania and the majority of the paid-up share capital of the local firm shall be owned by the government or citizens of Tanzania. In addition, there is no arrangement where major part of the net profits or other profits accrued is to be paid to persons who are not citizens of Tanzania or foreign companies or are transferred to off- shore accounts.</p> <p>12.6 The local firm shall submit in its tender, proof of its eligibility as specified under clause 6 of these Guidelines.</p> <p>12.7 The parties to the JV shall enter into a JV agreement in the format provided in <b>Annex 4 and Annex 5</b> to these Guidelines and shall stipulate among other things the rights, liabilities, responsibilities, and distribution of financial resources to each party to the JV.</p> <p>12.8 The JV agreement shall form part of the procurement contract between the PE and the JV.</p> <p>12.9 Breach of the terms and conditions of JV by either party may lead to termination of the procurement contract or other legal measures including debarment of the JV and its Directors.</p>
13.	<b>Requirements for Joint Ventures</b>	<p>13.1 Where a JV is formed between a local firm and a foreign firm for purposes of qualifying for national preference, at least 51% of the paid-up share capital of the local firm shall be owned by the Government</p>

		<p>or citizens of the United Republic of Tanzania.</p> <p>13.2 In a JV between a local firm and a foreign firm, the local firm to the JV shall allocate to the contract or project not less than 50% of key personnel required for the implementation of the contract or project.</p> <p>13.3 The JV agreement shall indicate the titles of key personnel that will be contributed by each party to the JV.</p> <p>13.4 The contribution of the financial resources of the local firm to the JV shall not be less than 50% of the financial resources required to implement the contract.</p> <p>13.5 The distribution of benefits from the procurement contract awarded to the JV may also follow the amount of financial contribution of the parties to the JV.</p>
14.	<b><i>Submission of tender by Joint Venture</i></b>	<p>14.1 Where a JV is allowed in the tender process, the PE shall state such requirement in the tender document;</p> <p>14.2 Tenders submitted shall include a letter of intent or an approval letter from competent authority responsible for JV registration and a draft JV Agreement or JV Agreement signed by all parties thereto Submission of tenders and all correspondences by joint venture shall be in the name of the joint venture as indicated in JV Agreement</p> <p>14.3 JV Agreement shall stipulate the lead party who shall represent the parties thereto during tendering stage and implementation of the contract.</p>
15.	<b><i>Liability against the Joint Venture</i></b>	<p>15.1 Firms participating in the JV shall be jointly and severally liable towards the PE.</p>
<b>B: SUBCONTRACTING</b>		
16.	<b><i>Subcontracting</i></b>	<p>16.1 Where a procurement contract originally intended</p>

<p><b>requirements</b></p>	<p>for local firms but no acceptable offers are received, the tender may be awarded to a foreign tenderer who shall be required to subcontract to a local firm for an amount not exceeding 30% and not less than 5% of the total contract value</p> <p>16.2 Subject to clause 16.1 The goods, works or services to be sub-contracted shall exclude Provisional Sums and Prime Cost.</p> <p>16.3 In implementing the requirement of sub-clause 16.1, the PE shall stipulate in tender documents the requirement by the foreign firm to sub-contract part of the contract to a local firm.</p> <p>16.4 PE shall require a foreign tenderer to indicate in its tender the percentage and type of goods, works or services to be subcontracted to the local firm.</p> <p>16.5 In case of domestic subcontracting, the foreign tenderer shall be required to indicate in its tender either of the following;</p> <ul style="list-style-type: none"> <li>i) the part of goods, works or services to be subcontracted and the local firm to be subcontracted by giving the details of the local firm to be subcontracted by filling the Form of 'Intent to Subcontract' in the format prescribed under the <b>Schedule</b> to these Guidelines;</li> <li>ii) the part of goods, works or services to be subcontracted without indicating a local firm to be subcontracted, and the foreign tenderer shall obtain the local firm through its own means, after being awarded the tender and before signing the contract; or</li> <li>iii) the part of goods, works or services to be subcontracted without indicating a local firm to be subcontracted and the foreign tenderer may indicate that the local firm shall be obtained with the assistance of the PE and the foreign firm shall be liable for the subcontractor so</li> </ul>

		<p>obtained.</p> <p>16.6 In case of nominated subcontracting, the PE shall engage a local firm to be a subcontractor through a competitive procurement process and instructs the foreign firm to work with the selected subcontractor.</p> <p>For the purpose of this clause -</p> <p>“domestic subcontracting” means a subcontracting method where a tenderer selects a subcontractor to engage; and</p> <p>“nominated subcontracting” means a subcontracting method where the PE engages a local firm to be a subcontractor through a competitive procurement process and agree with the foreign firm to work with the selected subcontractor.</p>
17.	<b><i>Arrangement for nominated subcontracting</i></b>	<p>17.1 PE shall, for purposes of nominated subcontracting use a competitive process to identify subcontractors who shall be nominated for an award of subcontracts.</p> <p>17.2 PE shall prepare a separate scope of works and bills of quantities for the main contractor and subcontractor and shall not invite priced tender for subcontractors before the contract for the main contractor is awarded.</p> <p>17.3 The subcontracting tender shall be approved by the Accounting Officer or the Tender Board, as the case may be regardless of whether it is main contractor or PE that invited the tender.</p> <p>17.4 Tenders shall be invited under the name of the main contractor who may be consulted regarding any specific procedure he may wish to include in the tender documents for the sub-contract.</p> <p>17.5 The selected tender by the PE shall first be submitted to main contractor for review before issuing instructions on accepting it as a sub-</p>

		<p>contract.</p> <p>17.6 PE shall require the main contractor to increase the scope of the goods, works or services from the main contract to the subcontract to meet the threshold incase the subcontract value does not meet the subcontracting threshold specified during tendering.</p> <p>17.7 The increased scope of works or services under sub-clause 17.6 shall use the unit rates in the subcontract tender for pricing where the specifications and requirements are comparable in terms of description and units of measure.</p> <p>17.8 PE shall, where the increased scope of goods, works or services are not comparable to the subcontractor's scope, use the unit rates in the main contract for pricing the increased scope.</p>
18.	<b>Arrangement for Domestic Subcontracting</b>	<p>18.1 The main contractor shall appoint a local firm of its choice that is eligible pursuant to clause 6 of these Guidelines to participate in public procurement to be a subcontractor.</p> <p>18.2 A main contractor shall, for purposes of domestic subcontracting under sub-clause 16.6 of these Guidelines, include the following in its tender:</p> <ul style="list-style-type: none"> <li>a) details relating to percentage and scope of the works or services to be subcontracted;</li> <li>b) documents showing proof of the eligibility and qualifications of the subcontractor if the subcontractor has been identified; and</li> <li>c) letter of intent to subcontract and a proposed subcontracting agreement if available.</li> </ul>
19.	<b>Evaluation process</b>	<p>19.1 During the evaluation, a PE shall grant a margin of preference of up to 6% to a foreign firm that subcontracts goods, works or services to a local firm based on thresholds indicated below:</p>



		<p>a) A preference of 6% shall be granted when the proposed subcontracting value is between 23% and 30% of the tender price;</p> <p>b) preference of 4% shall be granted when the proposed subcontracting value is between 16% and 22% of the tender price;</p> <p>c) preference of 2% shall be granted when the subcontracting value is between 10% and 15% of the tender price; and</p> <p>d) preference of 1% shall be granted when the subcontracting value is between 5% and 9% of the tender price.</p> <p>19.2 The lowest evaluated tenderer under a tender for subcontracting shall be nominated as a subcontractor by the PE.</p> <p>19.3 The nominated subcontractor shall enter into an agreement for subcontracting with the main contractor.</p>
20.	<b><i>Subcontractor's Agreement</i></b>	<p>20.1 Any agreement entered between a foreign firm and the subcontractor shall form part of the main contract between the PE and the foreign firm</p> <p>20.2 If the foreign firm terminates the subcontractors' agreement, the PE shall ensure that the replacement is a local firm of similar qualifications or above.</p>
21.	<b><i>Management of subcontracts</i></b>	<p>21.1 The nominated subcontractor shall be under the supervision of the main contractor and the risk associated with the subcontract shall be borne by the main contractor.</p> <p>21.2 The subcontractor under the domestic subcontracting shall be under the management, supervision and coordination of the main Contractor and the risk associated with the subcontract shall be borne by the main Contractor.</p> <p>21.3 Payments for certified goods, works or services undertaken by the subcontractor shall be made directly by a PE into the subcontractor's bank</p>

		account.
22.	<b>Formation of JV or Sub-Contracting by foreign firms</b>	<p>22.1 PE shall ensure that all foreign firms participating in all tenders whose threshold is above TZS 50,000,000,000.00 participate in procurement process as either a JV with a local firm or shall sub-contract part of the contract to a local firm after being awarded the procurement contract.</p> <p>22.2 The PE shall indicate in the respective Tender Document whether the specific tender allows the formation of JV or Sub-contracting.</p> <p>22.3 In case of JV, the foreign and local firm shall agree on the terms and conditions of the JV.</p> <p>22.4 In case of sub-contracting, the foreign firm shall sub-contract to a local firm between 5% – 30% of the contract price.</p> <p>22.5 The JV Agreement shall form part of the procurement contract to be entered between the PE and the JV.</p> <p>22.6 Breach of the terms and conditions of the JV or subcontract by either party may lead to termination of the procurement contract or other legal measures including debarment of the JV and its Directors.</p>
<b>C: PARTNERSHIP</b>		
23.	<b>Formation of Partnership</b>	<p>23.1 Tenderers may form a Partnership for the purpose of enjoying preferential treatment.</p> <p>23.2 A Partnership may be formed between local firms/persons or between local and foreign firms/persons.</p> <p>23.3 If the Partnership is formed between local/ firms/persons and foreign firms/persons, such Partnership shall not enjoy preferential treatment unless the local firm owns at least 51% of contribution/paid-up share capital (contribution of partners) in the Partnership.</p>

24.	<b><i>Proof of Share Ownership</i></b>	<p>24.1 For a Partnership comprising of local and foreign firms, during tendering, the local firm shall submit an Extract of Partnership Deed from the Registrar of Business Names showing that it owns paid-up share capital prescribed under sub-clause 23.3 of these Guidelines.</p> <p>24.2 A local firm that fails to submit such evidence shall automatically deprive itself of the privilege of preferential treatment.</p>
25.	<b><i>Contribution of Resources</i></b>	<p>25.1 Each partnership agreement shall explicitly state the contribution of human resources, capital and responsibilities among partners.</p> <p>25.2 The local firm/person shall contribute at least 50% of key personnel required to implement the contract.</p> <p>25.3 The financial resources contribution of the local tenderer to the Partnership shall not be less than 50% of the financial resources required to implement the contract.</p> <p>25.4 The distribution of benefits from the procurement contract awarded to the Partnership may also follow the amount of financial contribution of the parties to the Partnership.</p>
26.	<b><i>Preference for Partnerships</i></b>	<p>26.1 During the evaluation, subject to clauses 23, 24 and 25 of these Guidelines, a PE shall grant a preference of 10% to a foreign firm that forms a Partnership with local firm in procurement of works, goods, or services.</p>
<b>PARTICIPATION OF FOREIGN TENDERERS IN CONSULTANCY SERVICES</b>		
27.	<b><i>Inclusion of local experts and firms in consultancy services</i></b>	<p>27.1 Except under emergency procurement, a foreign consultant participating in any proposal for consultancy services shall include in his proposal local experts or firms.</p> <p>27.2 Subject to sub-clause 27.1 of these Guidelines, the inclusion of local experts or local firms shall apply to all proposals falling or not falling under the</p>

		<p>preference scheme.</p> <p>27.3 The PE shall indicate in the request for proposal requirements for the inclusion of local experts or firms in the proposal and the minimum number of local experts to be included in the consultancy contract shall not be less than 50% of the key personnel. Inclusion in its proposal of the local experts by the foreign consultant shall be evidenced by submitting the certified copies of academic and or professional certificates and duly signed curriculum vitae of the local experts as stipulated in the proposal document.</p> <p>27.4 The margin of preference for technical proposals shall be as provided under sub-clause 7.3 of these Guidelines.</p> <p>27.5 In the weight allocated for financial score, five (5) units shall be set aside for calculation of financial score in accordance with proportion of finances allocated for foreign and local firm.</p> <p>27.6 The margin of preference for financial proposals shall be evaluated as follow:</p> <p>(a) after the financial proposals of the successful firms have been opened and reviewed by the evaluation committee, the proposals which are responsive shall be classified into the following groups:</p> <p><b>Group A:</b> financial proposals offered by local consultants as well as Association between local consultants, eligible for the preference;</p> <p><b>Group B:</b> financial proposals submitted by associations between local and foreign consultants, eligible for the preference; and</p> <p><b>Group C:</b> financial proposals offered by foreign Consultants;</p>
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		<p>(b) for the purpose of evaluation and comparison of financial proposals:</p> <ul style="list-style-type: none"> <li>(i) the specified margin of preference shall be added to <b>Group A</b>;</li> <li>(ii) the specified margin of preference shall be calculated based on the proportion finances allocated to the local firms for <b>Group B</b>; and</li> <li>(iii) the specified margin of preference shall not be allocated to <b>Group C</b>.</li> </ul> <p>27.7 Calculations for evaluation and comparison of financial proposals under preference scheme shall be as elaborated in the <b>Annex 6</b> to these Guidelines.</p> <p>27.8 A foreign tenderer who fails to include in his tender the local experts as required under sub-clause 27.3, shall include in his tender evidence from statutory professional bodies established in Tanzania to justify that the required local key personnel are not available in Tanzania.</p>
28.	<b><i>Formation of JV or Association in consultancy contracts</i></b>	<p>28.1 Subject to sub-clause 27.1, inclusion by a foreign consultant of local firms in consultancy services shall be done through the formation of a JV or an Association with a local firm.</p> <p>28.2 Where a JV or an Association is formed between a foreign firm and a local firm, the local firm shall be 100% owned by citizens of Tanzania.</p> <p>28.3 Subject to clause 6.1, the local firm shall submit in its proposal, proof of its registration in Tanzania and a copy of the Consolidated Form issued by BRELA evidencing the amount of paid-up share capital of the local firm for a firm with limited liability.</p> <p>28.4 In a JV or an Association between a local firm and a foreign firm, each party to the JV shall allocate to the contract or project 50% of key personnel required for implementation of the contract or project.</p>

		<p>28.5 The parties to the JV or an Association shall enter into a JV Agreement in the format provided in <b>First Schedule</b> to these Guidelines and shall stipulate the rights, liabilities, responsibilities, and distribution of financial resources to each party to the JV.</p> <p>28.6 The JV or Association Agreement shall indicate the titles of key personnel that will be allocated to the contract or project by each party to the JV.</p> <p>28.7 The financial resources contribution of the local firm to the JV or Association shall not be less than 50% of the financial resources required to implement the contract.</p> <p>28.8 The JV or Association Agreement shall form part of the procurement contract to be entered between the PE and the JV or Association.</p> <p>28.9 Breach of the terms and conditions of the JV or Association by either party may lead to termination of the procurement contract or other legal measures including debarment of the JV or Association and its Directors.</p>
<b>CAPACITY BUILDING TO LOCAL PERSONS OR FIRMS</b>		
29.	<b><i>Allocation of tenders for Capacity Building</i></b>	<p>29.1 PEs shall allocate not less than 30% of their Annual Procurement Plan (APP) for tenders to local persons or firms.</p> <p>29.2 User Department in liaison with the Procurement Management Unit (PMU) is required to indicate in its Statement of Requirements, tenders to be set aside for local persons or firms before submission to the PMU.</p> <p>29.3 PE shall indicate in the APP the tenders set aside under various preference schemes by selecting the specific preference applicable in each tender.</p> <p>29.4 Subject to sub clause 29.1, the PE shall give reasons for its failure to allocate the 30% of their Annual Procurement Plan (APP) for preference scheme and</p>

		<p>stated reasons, together with the APP shall be submitted to the budget approving authority for approval.</p> <p>29.5 PE shall prepare quarterly reports on the implementation of clause 29 of these Guidelines in the format prescribed under <b>Fourth Schedule</b> to these Guidelines and submit it to the Authority.</p> <p>29.6 PE is allowed to split tenders for purposes of capacity building of local tenderers.</p> <p>29.7 PE shall allow formation of JV in the tender documents in all tender set aside for the purpose's capacity building of the local tenders</p>
30.	<b>Annual Turnover considerations</b>	<p>30.1 In tenders under preference schemes, where the PE requires tenderers to submit evidence of average annual turnover over a specified period, the PE shall consider a tenderer's turnover as meeting the requirements if the submitted turnover reflects the average annual turnover over the specified period, regardless of whether the turnover was attained in each individual year of that period, or in a single year during the specified period. In the case of local firms with no experience, this criterion shall be waived.</p> <p>30.2 Formula for calculating Average Annual Turnover (AAT) is given below: -</p> <p>AAT=Sum of annual turnover divided by Number of years</p> <p><i>For example; -</i></p> <p><i>tender price: 15 billion</i>  <i>Assume, turnover Y1 = 11,000,000,000</i>  <i>Y2 = 13,000,000,000</i>  <i>Y3 = 15,000,000,000</i>  <i>estimated annual turnover duration: 3 years</i>  <i>Average annual tender price turnover =</i>  <i>= (Y1 + Y2 + Y3)/3</i></p>

		$=39,000,000,000/3$ $AAT= 13,000,000,000$ <p>30.3 Tenderers' average annual turnover over a period of time shall not be less than 50% of their tender-price.</p> <p><i>From the example under sub-clause 30.2 of these Guidelines, the tenderer's annual turnover must be equal to or greater than <math>1/4 \times 15 \text{ billion} = 3.75 \text{ billion}</math>.</i></p> <p>The procedure for calculating AAT is given in <b>Annex 7</b> of these Guidelines.</p>
31.	<b>Experience considerations for Local Firms</b>	<p>31.1 In works and services tenders, where a PE requires tenderers to submit evidence of general experience and/or Sexual harassment, exploitation and abuse performance declaration similar/specific experience, for the case of local firms with no experience, this criterion shall be waived and instead evaluation shall be done with regards to: -</p> <ul style="list-style-type: none"> <li>a) Qualification and experience of key personnel;</li> <li>b) Quality and quantity of proposed key equipment (where applicable);</li> <li>c) Quality of methods to accomplish the assignment;</li> <li>d) Understanding terms of reference of the assignment (where applicable);</li> <li>e) Litigation history;</li> <li>f) Completion period;</li> <li>g) Sexual harassment, exploitation and abuse (discrimination) performance declaration;</li> <li>h) Tender validity;</li> <li>i) Notarized Power of Attorney;</li> <li>j) Access to finance/ line of credit; and</li> <li>k) Other criteria depending on the nature of the assignment: - <ul style="list-style-type: none"> <li>i) Risk management plan</li> <li>ii) Equipment Mobilization Strategy</li> <li>iii) Site organization plan;</li> <li>iv) Construction Management Strategy;</li> <li>v) Mobilization schedule;</li> <li>vi) Environmental and Social Management</li> </ul> </li> </ul>



		<p>Strategy and Implementation Plan (ESMIP); vii) Safety and health management Plan.</p> <p>31.2 Application of the requirements of sub clause 31.1 shall be limited to tenders with value not exceeding the threshold of regional exclusive preference.</p> <p>31.3 In case of procurement of works tenders, the requirement of sub clause 31.1 shall apply to Contractors in Class VI or VII.</p>
<b>GENERAL PROVISIONS</b>		
32.	<b><i>Participation of foreign tenderers in tenders initially set aside for local tenderers</i></b>	<p>32.1 Any tender falling within the threshold of exclusive preference shall not be open to foreign tenderers.</p> <p>32.2 Notwithstanding the requirements of sub clause 32.1, where the PE does not obtain local tenderers for tenders advertised under exclusive preference, foreign tenderers may be invited to participate in such tender.</p> <p>32.3 Foreign tenderers participating in the tender under this clause shall participate in the tender process either as a JV with a local firm or by subcontracting part of the works or services to local firms using the procedures stipulated under these Guidelines.</p>
33.	<b><i>Employment of local support staff</i></b>	<p>33.1 In any contract for works, goods, consultancy or non-consultancy services, the PE shall state in the tender documents type or category of local supporting personnel who shall be employed by the foreign contractor, supplier, service provider or consultant to support the implementation of the contract.</p> <p>33.2 A foreign contractor, supplier, service provider or consultant shall submit in his tender the category and number of local support staff who will be involved in the implementation of the contract and the duration such support will be provided.</p> <p>33.3 During implementation of the contract, PE shall ensure the foreign contractor, supplier, service provider or consultant awarded a procurement</p>

		<p>contract employs the local support staff.</p> <p>33.4 A replacement of a local support staff shall be by a local support staff of similar qualification and above.</p> <p>33.5 Except as otherwise stated in the employer's requirement, the contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, housing, feeding and transport</p>
34.	<p><b><i>Preference to local firms forming JV with other local firms</i></b></p>	<p>34.1 In works tenders set aside for exclusive preference to local firms, a contractor with higher registration class (Class one and class two) may enter in a JV with a contractor with lower registration class (class three up to class seven) for purposes of capacity building</p> <p>34.2 Subject to sub clause 34.1, a JV formed shall be granted a margin of preference as follows:</p> <ul style="list-style-type: none"> <li>a) where the contribution of the contractor with higher registration class and that of the contractor with lower registration class 50% each, the JV shall be granted a margin of preference of 15%.</li> <li>b) where the contribution of the contractor with lower registration class is between 26% to 49% of the contract value, the JV shall be granted a margin of preference of 10%.</li> <li>c) where the contribution of the contractor with lower registration class is between 1% to 25% of the contract value, the JV shall be granted a margin of preference of 6%.</li> </ul> <p>34.3 The tender document shall include the requirements that for a contractor with higher registration class (Class I and Class II) can enter in JV with a contractor with lower registration class (Class III up to Class VII).</p>

		34.4 Evaluation of tenders shall be done as per Clause 36.2 of these Guidelines.
35.	<b><i>Preference to local firms sub-contracting works to other local firms</i></b>	<p>35.1 In works tenders set aside for exclusive preference to local firms, a contractor with higher registration class (Class I and Class II) may sub-contract part of works to a contractor with lower registration class (Class III up to Class VII) for purposes of building capacity.</p> <p>35.2 Subject to sub clause 35.1, sub-contracting shall be granted a margin of preference as follows:</p> <ul style="list-style-type: none"> <li>a) where the contractor with higher registration class sub-contracts between 20% to 30% of the works to the contractor with lower registration class, the contractor with high registration class shall be granted a margin of preference of 10%.</li> <li>b) where the contractor with higher registration class sub-contracts between 10% to 19% of the works to the contractor with lower registration class, the contractor with high registration class shall be granted a margin of preference of 8%.</li> <li>c) where the contractor with higher registration class sub-contracts between 1% to 9% of the works to the contractor with lower registration class, the contractor with high registration class shall be granted a margin of preference of 5%.</li> </ul> <p>35.3 The tender document shall include the requirements that a contractor with higher registration class (Class I and Class II) may sub-contract works to a contractor with lower registration class (Class III up to Class VII).</p> <p>35.4 Evaluation of tenders shall be done as per Clause 36.2 of these Guidelines.</p>

		<p>35.5 The sub-contract shall be procured following the procedures stated in Clause 19 of these Guidelines.</p> <p>35.6 Payments for certified works or services undertaken by the subcontractor shall be made directly by a PE into the subcontractor's bank account.</p>
36.	<p><b><i>Margin of Preference to local Suppliers, consultants and non-consultants sub-contracting to local Suppliers, consultants and non-consultants</i></b></p>	<p>36.1 In goods, consultancy and non-consultancy tenders set aside for exclusive preference to local firms a margin of Preference to local supplier, service provider or consultant whose investment capital falls under the medium or larger enterprises category as per Small and Medium Enterprises National Development Policy, 2003 (as amended) sub-contracting to local supplier, service provider or consultant whose investment capital falls under the micro or small enterprises category as classified by the Policy in tenders under Exclusive Preference.</p> <p>36.2 A margin of preference shall be granted to the local firm sub-contracting as follows: -</p> <ul style="list-style-type: none"> <li>a) where a local supplier, service provider or consultant whose investment capital falls under the medium or large enterprises category subcontracts between 20% to 30% whose investment capital falls under the micro or small enterprises category, the local supplier, service provider or consultant under the medium or large enterprises category shall be granted a margin of preference of 10%.</li> <li>b) where a local supplier, service provider or consultant under the medium or large enterprises category subcontracts between 10% to 19% to a local supplier, service provider or consultant whose investment capital falls under the micro or small enterprises category, the local supplier, service provider or consultant under the medium or large enterprises category shall be granted a margin of preference of 8%.</li> </ul>

		<p>c) where a local supplier, service provider or consultant under the medium or large enterprises category subcontracts between 1% to 9% to a local supplier, service provider or consultant whose investment capital falls under the micro or small enterprises category, the local supplier, service provider or consultant under the medium or large enterprises category shall be granted a margin of preference of 5%.</p> <p>36.3 Payments for certified works or services undertaken by the subcontractor shall be made directly by a PE into the subcontractor's bank account.</p>
37.	<b><i>Preference to parent local firms</i></b>	<p>37.1 Subject to clauses 34, 35, 36 and 37 margin of preference shall not be granted to the parent firms forming JV or subcontracting to its subsidiary firms.</p> <p>37.2 Subject to clauses 34, 35, 36 and 37, breach of the terms and conditions of the JV or subcontract by either party shall lead to termination of the procurement contract or other legal measures including debarment of the JV and its Directors.</p>
38.	<b><i>Payments to local firms</i></b>	<p>38.1 PE shall, before initiating the procurement process under preference scheme, ensure that funds for the implementation of the contract have been set aside and approved.</p> <p>38.2 PE shall ensure that payments to local tenderers are made within time as per terms of payment stipulated in the contract documents.</p>
39.	<b><i>Evaluation of tenders under preference schemes</i></b>	<p>39.1 In the evaluation of tenders set aside for capacity building that are submitted in form of partnership or JV, criteria regarding experience, cash flow, annual turnover, key personnel, and value of the implemented projects shall be consolidated and shall not be evaluated per individual person or firm.</p> <p>39.2 Evaluation of tenders under preference schemes shall be done using the procedures stipulated in;</p>

		<ul style="list-style-type: none"> <li>i) Evaluation Guidelines for Goods, Works and Non-Consultancy Services, 2024; and</li> <li>ii) Evaluation Guidelines for Consultancy Services, 2024.</li> </ul>
40.	<b><i>Internship of Graduate Trainees</i></b>	<p>40.1 For the purpose of building capacity of graduate trainee (s) during the implementation of works/consultancy and non-consultancy contracts, the PE shall indicate in its tender the requirements for graduate trainee (s) who will be involved and specify the area (s) to be capacitated as follows:-</p> <ul style="list-style-type: none"> <li>i) For works project with the threshold below than TZS one billion, not less the three (3) graduates.</li> <li>ii) For works project with the threshold above TZS one billion, not less the five (5) graduates.</li> <li>iii) For works project involving foreign firm, not less than ten (10) graduates.</li> <li>iv) For consultancy services, not less than two (2) graduates.</li> <li>v) For non-consultancy services, where required, the service provider shall provide opportunities for a minimum of two (2) graduates.</li> </ul> <p>40.2 For the purpose of building capacity of graduate trainees during the implementation of contracts, the PE shall indicate in its Tender Documents the number of graduate trainees and the areas for capacity building.</p> <p>40.3 The PE shall indicate in the tendering documents the source of graduate trainees from the Government graduate internship program to be attached in project/assignment implementation.</p> <p>40.4 Subject to clause 41.2 the sources of the graduate trainees shall include TAESA, AQRB, ERB and any other relevant institutions and professional bodies.</p> <p>40.5 PE shall request the relevant Institutions, Agency and professional bodies the graduate trainees to be</p>

		<p>placed basing on the key personnel required to the specific project/assignment implementation.</p> <p>40.6 The relevant Institutions, Agency and professional bodies shall provide to PE scope of training to the graduate trainees placed in the implementation of contract.</p> <p>40.7 PE shall provide in the tender documents a Lumpsum amount to cater for graduate trainees taking into account the minimum wages for number of graduates required by these Guidelines.</p> <p>40.8 Graduate trainees placed in the specific project/assignment shall prepare monthly reports to be submitted to the contract manager, Institutions, Agency and professional bodies</p>
41.	<b><i>Dispute settlement</i></b>	Any dispute arising out of the implementation of these Guidelines shall follow the procedures for dispute settlement provided in tender documents and in the Public Procurement Act, Cap 4210 and its Regulations.
42.	<b><i>Monitoring of these Guidelines</i></b>	The Authority shall monitor the implementation of the preference scheme of the procuring entity.
43.	<b><i>Review of the Guidelines</i></b>	These Guidelines shall be reviewed after every three years or when need arises or when deemed necessary.

## **ANNEXES**



## Annex 1: Tenderers JV Members Information Form

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

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

RFB No.: *[insert number of Tendering process]*

Alternative No.: *[insert identification No if this is a Tender for an alternative]*

1. Tenderer's Name: <i>[insert Tender Tenderer's legal name]</i>
2. Tenderer's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Tenderer's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Tenderer's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Tenderer's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Tenderer'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 ITB 4.4. <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 Employer, in accordance with Sub-Clause .. of these Guidelines)
8. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership. <i>[The successful Tenderer shall provide additional information on beneficial ownership for each JV member using the Beneficial Ownership Disclosure Form.]</i>

## Annex 2: Beneficial Ownership Disclosure Form

*INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM*

*This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful Tenderer. In case of joint venture, the Tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:*

- directly or indirectly holding 25% or more of the shares*
- directly or indirectly holding 25% or more of the voting rights*
- directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer*

**Annex 3:** Environmental and Social Performance Securing Declaration

**Environmental and Social Performance Securing Declaration**

**Date:** *[insert day, month, year]*

**Contract No. and Title:** *[insert contract number and title]*

**To:**

*[Insert complete name of Employer/Client/Purchaser] (select as applicable)*

*[Insert complete physical address of Employer/Client/Purchaser] (select as applicable)*

**Declaration:**

I/We, the undersigned, hereby declare as follows:

**1. Understanding of Obligations:**

I/We acknowledge that under the terms and conditions of the above-referenced contract, I/We am/are duty-bound to guarantee the faithful environmental and social performance by the [Contractor/Supplier/Service Provider/Consultant] *(select as applicable)* concerning all obligations under the contract.

**2. Consequences of Non-Performance:**

I/We accept that in the event of failing to perform the contract in accordance with the stipulated Environmental and Social terms and conditions, I/We may be debarred from participating in public procurement for a period as may be determined by the Public Procurement Regulatory Authority, in accordance with the Public Procurement Act, Cap. 410 and its Regulations.

**3. Validity of Declaration:**

This Environmental and Social Performance Securing Declaration shall remain valid until satisfactory performance and final acceptance of the assignment by the Employer/Client/Purchaser *(select as applicable)*.

**Declared and signed by:**

Name: *[insert name of person signing the Environmental and Social Performance Securing Declaration]*

Signature: *[insert signature of person whose name and capacity are shown]*

Designation: *[insert legal capacity of person signing the Environmental and Social Performance Securing Declaration]*

Duly authorized to sign the Contract for and on behalf of: *[insert complete name of Contractor/Service Provider/Consultant/Supplier]* (select as applicable).

Dated on this .....day of .....,..... *[insert date of signing]*

Affix Corporate Seal/Stamp (as appropriate)

**Annex 4: Joint Venture Agreement Sample Form – Local and local firm/person**

**JOINT VENTURE AGREEMENT**

THIS JOINT VENTURE AGREEMENT (hereinafter called the “Agreement”) made and entered into this .....day of the month of.....20.....by and among:

*[Name and address of the local firm/person]* (hereinafter called “[*Short Name or Acronym*]”), which expression shall include its successors, legal representatives and permitted assigns, who for the purpose of this Agreement shall hereinafter called “Member”;

**AND**

*[Name and address of the local firm/person]* (Hereinafter called the “[*Short Name or Acronym*]”), which expression shall include its successors, legal representatives and permitted assigns, who for the purpose of this Agreement shall hereinafter called “Member”.

AND (*as many as they may be as allowed in the tender documents*)

The above “Members” to *Joint Venture (JV)* for the purpose of this Agreement hereinafter individually called the “Member” and collectively called the “Members”.

**NAME FOR THE FORMED JV AND ADDRESSES**

the Members have agreed to join hands in the form of a JV to in the name of *[Name the Name of JV]*

**WHEREAS;**

- (a) the Purchaser/Employer/Client (as defined hereunder) intends to appoint /has appointed [*a Supplier/Contractor/Service Provider.*] for providing [*Name the Service whether Supply//Construction/Service.*]; hereinafter called the “Goods/Works/Services”; and
- (b) the Members have agreed to join hands in the form of a JV to provide the said [*Name the Goods/Works/Services.*]

**NOW THEREFORE,** the Members have agreed as follows:

**1.0 DEFINITIONS**

- 1.1** The following words and expressions shall have the meanings assigned to

them, except where the context otherwise requires:

“Purchaser”/“Employer”/ “Client” means the Procuring Entity named in [Schedule 1];

"Country" means the country named in [Schedule 1] where the contract is to be implemented;

“Invitation” means the invitation of the *Purchaser/Employer/Client* to a Member or Members to submit a tender for the provision of [*Name the Supply//Construction/Service*];

“*Joint Venture*” means a combination formed between two or more tenderer in accordance with this Agreement;

*Joint Venture* Agreement, hereinafter referred to as "this Agreement", comprises the document entitled Conditions and Terms together with Schedules 1 to 4 attached there to and such other documents as may be specified in [Schedule 1] to form part of this Agreement;

“Leading Member” means the member that will take the lead in the management of the Joint Venture’s affairs and that will provide the Joint Venture’s Representative for liaison;

"Members" means the individuals or firms which have agreed to form the Joint Venture in connection with the goods/works/services Contract;

“JV Management Committee” means committee formed by the Representatives of the JV Members with a duty to oversee the operations of the JV( formulate policies of the JV and appointing the representative of the JV);

“Project” means the proposed or actual *goods/ works/services* named in [Schedule 1] which the *Purchaser/Employer/ Client* intends or has commenced to procure and requires a supplier/a contractor/ services provider;

"Tender" means an offer, proposal or quotation prepared and submitted by the *Joint Venture* in response to the Invitation;

"Supplies”/“Works”/Services" means all the goods/works/services to be supplied/constructed/performed by the Joint Venture in accordance with requirements of the Tender and the resulting Contract;

"Services Agreement" means the agreement between the Client and the Joint Venture for the provision of professional services for the Project;

"Contract Manager" means the person appointed by the JV Management Committee for management of the contract of the goods, works or services in accordance with Sub-Clause 7.12.

## 2.0 JOINT VENTURE

2.1 The Members hereby establish a joint venture being an unincorporated association under the name of [*name of joint venture*] or such other name as the Members shall unanimously agree from time to time (hereinafter called the "Joint Venture"/) for the purposes of:

- i. preparing and submitting the tender to the Purchaser/Employer/Client;
- ii. providing any further information, the Purchaser/Employer/Client may require or negotiating with the Purchaser/Employer/Client on any matters requiring negotiation in connection with the tender;
- iii. entering into the Supply/Works/Services Contract with the Purchaser/Employer/Client, if the tender is accepted; and
- iv. *supply the goods/construct/performing all the Services* under the *Supply/Works/Services Contract*.

2.2 The Members hereby appoint the Leading Member who shall be the representative of the Joint Venture, and shall confirm the addresses of the *Joint Venture* and the addresses of the Members respectively, as stated in [Schedule 1].

2.3 Unless otherwise agreed in writing by the Members, this Agreement shall not be terminated if a Member changes its name or is taken over by, or merged with, another company or partnership provided that such successor name, company or partnership is *a supply/a construction/an independent professional* firm acceptable to the *Purchaser/Employer/Client*.

2.4 The contribution of each party to the JV shall be as provided under the following table:

**Table: JV Contribution**

S/N	Type of Contribution to the JV	Member 1(%)	Member 2 (%)
1.	Financial contribution		
2.	Personnel contribution		

2.5 Upon the execution of JV Agreement, each of the Members shall grant a Power of Attorney in favor of a person nominated by it as its Representative, as

designated in [Schedule 1].

- 2.6 The Representatives of each Member will constitute the JV Management Committee of the Joint Venture. Under the Power of Attorney granted to the representatives, the Representative of each Member shall have authority to sign the JV Agreement on behalf of its firm.
- 2.7 The Lead Member shall appoint a Representative who shall be the representative of the Joint Venture in the procurement process.

### **3.0 TENDER SUBMISSION**

- 3.1 The Members shall make all reasonable endeavors to obtain from the *Purchaser/Employer/Client* the award of the Supply/Works/Services tender in accordance with the conditions of the Invitation or such conditions as may subsequently be agreed between the *Purchaser/Employer/Client* and the Joint Venture.
- 3.2 Under the co-ordination of the Leading Member, the members shall jointly prepare and submit tender to the *Purchaser/Employer/Client*.
- 3.3 The Members shall cooperate with the Leading Member and perform with all reasonable skill, care and diligence their respective functions as allotted by the JV management committee until the award and signing of the Supply/Works/ Services Contract to the Joint Venture or until the satisfaction of Clause 16.
- 3.4 The Lead member shall grant Power of Attorney to its representative who shall have authority to submit the tender and sign the contract on behalf of and in the name of the JV. The signature of the representative of the lead member shall bind the JV in respect of all obligations and liabilities it assumes under the Contract.
- 3.5 Once the Tender has been submitted to the *Purchaser/Employer/Client*, no changes may be made or additional information or explanations given without the consent of all the Members until the Supply/Works/Services Contract is effective.
- 3.6 The JV shall enter into the Supply/Works/Services Contract with the *Purchaser/Employer/Client*, if it is awarded to the Joint Venture.

### **4.0 JV OBLIGATIONS TO THE CONTRACT IMPLEMENTATIONS**

- 4.1 The JV shall implement the Contract of goods / works /services entered



between JV and Purchaser/Employer/Client in accordance with the terms and conditions of that Contract and this JV Agreement. In the event of any inconsistency of the Contract of goods/works/services and this JV Agreement the Contract of goods/works/services shall prevail.

- 4.2 Each Member shall be responsible for fulfilling the obligations prescribed in [Schedule 2] in accordance with the terms of the Contract of goods/works/services to the satisfaction of the Purchaser/Employer/Client.
- 4.3 The apportionment of the Joint Venture's obligations between the Members in accordance with [Schedule 2] can be amended by agreement between the Members, subject to the consent of the Purchaser/Employer/Client.
- 4.4 If required, any alterations or additions to the goods/works/services to be supplied/performed/provided under the Contract of goods/works/services shall be made with the consent or on the instructions of the Purchaser/Employer/Client. The responsibility for carrying out additional obligations shall be as agreed between the Members.

## **5.0 LANGUAGE AND LAW**

- 5.1 The Joint Venture Agreement shall be in English Language.
- 5.2 This Agreement shall be governed by the Laws of Tanzania.

## **6.0 EXCLUSIVITY**

Unless otherwise agreed by the Members, no Member shall engage in any activity related to the Project, other than as a Member of the Joint Venture and in accordance with the terms and conditions of this Agreement. Each Member warrants that its subsidiaries and other firms or individuals over which it has control will comply with this requirement.

## **7.0 EXECUTIVE AUTHORITY**

- 7.1 No Member shall have authority to bind or to make any commitment on behalf of the Joint Venture or of any other Member unless such authority is expressed in writing by the Members jointly in regard to the Joint Venture, or by a Member individually in regard to the (other) Member.
- 7.2 From the date of this Agreement until the award of the Goods/Works/Services Contract to the Joint Venture or until this Agreement terminate in accordance with its terms, whichever is the earlier, the following matters shall require the unanimous consent of the Members:

- for the purpose of submitting the Tender, the respective responsibilities and obligations to be undertaken by the Members subject to the conditions of the Invitation;
  - for the purpose of submitting the Tender, terms and conditions comprised in the Tender as applicable to the Joint Venture generally, and to the Members separately, subject to the conditions of the Invitation; and
  - any communication to, or response to communication from, the Purchaser/Employer/Client either written or oral and any commitment of any kind to the Purchaser/Employer/Client or any other party in connection with the Tender.
- 7.3 From the date of the award of the Goods/Works/Services Contract to the Joint Venture, decisions on the policies of the Joint Venture shall be vested in a JV Management Committee comprising the Representative of each of the Members specified in accordance with Sub-Clause 2.6.
- 7.4 Each Member shall provide notice of its Representative on the JV Management Committee to other Member of the JV and shall give prior notice of any change in such appointment (s), temporary or otherwise, as may occur from time to time.
- 7.5 The representative of the Leading Member on the JV Management Committee shall be the Chairman of the Committee. The Chairman shall ordinarily convene the meetings of the Committee and may invite others whom he wishes to attend, in order to inform or advise the Representatives, or to record the proceedings of the Committee.
- 7.6 In the event of disagreement between members of the JV Management Committee on matters not otherwise prescribed in this Agreement the Chairman shall be entitled to use a casting vote.
- 7.7 Meetings of the JV Management Committee shall take place at least [*State Number of Meetings*] unless otherwise agreed by the Members. A Member may convene a meeting of the Committee at any time by giving at least seven calendar days' notice in writing to the Members.
- 7.8 Minutes of the meetings shall be kept, in English language and all meeting of the JV Management Committee and copies of all such minutes shall be circulated to the Members.
- 7.9 The Members respectively agree to act (and agree that their respective representatives on the JV Management Committee shall act) at all times in

the best interests of the Joint Venture in taking any actions relating to the Project and shall use all reasonable endeavors to settle any disputes arising between them in connection with the Joint Venture.

- 7.10 Unless otherwise agreed by the Members, the Leading Member shall have power to appoint Contract Manager ,subsequently remove him from that position and appoint a replacement.
- 7.11 The JV shall notify in writing the Purchaser/Employer/Client of the appointment, removal or replacement of Contract Manager.
- 7.12 The Contract Manager shall manage and supervise the implementation of the Goods/Works/Services Contract in accordance with the directions of the JV Management Committee, and shall report to the JV Management Committee on the performance and progress of the contract as and when required by that Committee.
- 7.13 Each Member may appoint a Representative in each locality where that Member is to work. The Representative of a Member shall be responsible for the obligations to be undertaken by it in the said locality and for performance of its responsibilities in that locality under this Agreement.
- 7.14 Each Member shall notify the other of its Representative and responsibilities assigned to him and shall give prior notice of any change in such appointment (s) or assignment (s) of responsibilities as may occur from time to time.
- 7.15 The Representatives shall work under the supervision of the Contract Manager.

## **8.0 DOCUMENTS**

- 8.1 All documents produced by a Member or the Members in connection with the Project which are made available to persons other than the Members shall bear the name of the Joint Venture.
- 8.2 All documents prepared by either of the Members in connection with the implementation of Goods/Works/Services Contract, and which are submitted to the Client or are to be made available to third parties, shall be signed by the Authorized representative of Lead Member.
- 8.3 Each Member shall have unrestricted access to any activity of the project carried out by the Members in connection with the Contract of Goods/Works/Services

- 8.4 Copies of all documents submitted to the Purchaser/Employer/Client by or on behalf of the Joint Venture by a Member shall be circulated to the Members as soon as reasonably practicable following such submission.
- 8.5 During the period of this Agreement and after the termination of the Agreement without limit in point of time, no Member shall disclose to any person any information which it obtains through its participation in the Joint Venture (and shall ensure that its employees shall observe such restrictions) unless the said information:
- becomes public knowledge;
  - must be disclosed for the proper supply/construction/ performance of the Goods/Works/Services; or
  - is published with the approval of the Joint Venture and, when required under the Goods/Works/Services Contract, of the Purchaser/ Employer/Client.
- 8.6 Before completion of the project, no Member shall utilize photographs, or other data describing the Project, in promoting its own business, without the approval of the other Member(s).
- 8.7 Except as may be otherwise provided under the Goods/Works/Services Contract, the copyright in documents produced by a particular Member in connection with the Project is granted to the Members and each Member hereby licenses the Members to use and reproduce documents produced by it.
- 8.8 Except as provided in Sub-Clause 8.6, each Member shall indemnify the Members against all claims, liabilities, damages, costs and expenses sustained as a result of reusing the designs, drawings and other documents produced for the Project on other projects.
- 9.0 PERSONNEL**
- 9.1 Each Member shall assign a sufficient number of its employees to the Project so that the provisions of this Agreement are complied with and the Goods/Works/Services are supplied/constructed/carried out in accordance with the Goods/Works/Services Contract. Unless specifically agreed otherwise, the Joint Venture shall have no employees of its own.
- 9.2 Each Member shall be responsible for all actions of its staff and shall continue to be responsible in all ways for its own obligations as employer of its employees.

- 9.3 Notwithstanding the foregoing provisions of this Clause, each Member may allow; any person, firm or corporation over which it exercises management control; subject to the approval of the other Members, to fulfill any of the obligations for which it is responsible under this Agreement provided that, in such circumstances, the control of and responsibility for those obligations shall at all times remain vested in the Member.
- 9.4 Each Member may be entitled to invite, subject to the approval of the Purchaser/Employer/Client (if required) and to the agreement of the Members, sub-contractor to carry out any of that Member's obligations, provided that in such circumstances the control of and responsibility for undertaking those obligations shall at all times remain vested in the Member in question.

## **10.0 ASSIGNMENT AND THIRD PARTIES**

- 10.1 No Member shall sell, assign, mortgage, pledge, transfer or in any way dispose of any rights or interests under this Agreement, or its interests in any sums payable by the Purchaser/Employer/Client other than by a change in favour of its bankers of any monies due or to become due under the Goods/Works/Services Agreement Contract, without the prior written consent of the Members.
- 10.2 This Agreement is exclusively for the benefit of the Members and shall not be construed as conferring, either directly or indirectly, any rights or causes of action upon third parties.

## **11.0 SEVERABILITY**

- 11.1 If any part of any provision of this Agreement is found by an arbitrator or Court or other competent authority to be void or unenforceable, such part of the provision shall be deemed to be deleted from this Agreement and the remainder of such provision and the remaining provisions of this Agreement shall continue to be in full force and effect.
- 11.2 Notwithstanding the foregoing, the Members shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the part of the provision found to be void or unenforceable.

## **12.0 MEMBER IN DEFAULT**

- 12.1 In the event of insolvency of a Member, the other Member [or remaining Member (s) of rest of JV] is hereby irrevocably constituted and appointed to act for it in all matters affecting performance of this Agreement.

- 12.2 A Member that delays or fails to fulfill its obligations in whole or in part under this Agreement shall be deemed in default and shall indemnify the other Member (s) in respect of the consequences.
- 12.3 A notice in writing from the Purchaser/Employer/Client that the performance of obligations under the Supply/Works/Services Contract is unsatisfactory or that the continued involvement of a Member is no longer required in whole or in part shall for the purposes of this Clause mean that the Member concerned is in default unless otherwise agreed by the other Member(s).
- 12.4 If the default of a Member shall be such that the Member in question shall be substantially in breach of its obligations hereunder, the other Member(s) shall be entitled to reassign the work concerned.
- 12.5 Any actions taken by the other Member against the defaulting Member pursuant to the preceding Sub-Clauses of hereof shall be without prejudice to any rights to which he may be entitled at law against the defaulting Member.
- 12.6 If a reassignment of work under the Supply/Works/Services Contract is made in accordance with this Clause, the defaulting Member shall not obstruct the Member who undertakes the reassigned work and shall provide him with access to all documents and information necessary for its proper performance.
- 12.7 Any sums received by the Joint Venture in payment for the defaulting Member's obligations already undertaken shall be used to compensate any loss or damage resulting from the default of that Member. The defaulting Member shall remain responsible for providing guarantees and bonds relevant to the obligations allocated to that Member prior to such reassignment until the completion of the Supply/Construction/Services.
- 12.8 If all of the defaulting Member's obligations are reassigned in accordance with this Clause, the other Member(s) shall be entitled to and shall:
- 12.8.1 carry on and complete the implementation of the Supply/Works/Services Contract without the participation of the defaulting Member, its successors, receivers or other legal representatives and continue to act in accordance with the terms of this Agreement (as amended to take account of the non-participation of the defaulting Member); and
- 12.8.2 retain for the implementation of the Supply/Works/Services Contract all equipment and materials purchased therefore and all assets owned by

the Joint Venture at the time of the default by the defaulting Member until the completion of the Supply/Works/Services.

- 12.8.3 The defaulting Member, its successors, receivers or other legal representatives shall execute and do all deeds, documents and things necessary to enable the said equipment and materials to continue to be so used and to enable the Joint Venture to continue without involvement of the defaulting Member.
- 12.9 Upon completion or earlier termination of the Supply/Works/Services Contract and receipt of all amounts due thereunder, the remaining Member(s) shall account to the Member in default which shall be entitled to receive an amount equal to any sums provided by the defaulting Member towards any general funds which shall not previously have been expended, plus such Member's share of any funds of the Joint Venture due to it, reduced by any losses or damage occasioned by its default.
- 12.10 In the event that the share of the losses chargeable to the defaulting Member exceeds any sums provided by the defaulting Member to any general funds and the share of any funds of the Joint Venture due to it in accordance with the terms of this Agreement, the defaulting Member shall promptly pay the excess to the remaining Member(s).

### **13.0 DURATION OF THE JV AGREEMENT**

- 13.1 If it has been jointly established by the Members that the Tender will not be accepted by the Purchaser/Employer/Client or if it has not been accepted by the Purchaser/Employer/Client within the period allowed for acceptance in accordance with the Tender or any extension of that period subsequently agreed between the Purchaser/Employer/Client and the Joint Venture, this Agreement shall thereupon terminate forthwith.
- 13.2 If the Tender is accepted by the Purchaser/Employer/Client, this Agreement shall continue to have full force and effect and shall continue the same when the Supply/Works/Services Contract is entered into with the Purchaser/Employer/Client, until confirmation has been received from the Purchaser/Employer/Client that the Supply/Works/Services have been completed, or the Supply/Works/Services Contract has been terminated, and all accounts relating to the Services between the Joint Venture, the Client and third parties and between the Members are acknowledged as settled.
- 13.3 Provided that the terms of this Agreement shall nevertheless continue to bind the Members to such extent and for so long as may be necessary to give effect to the rights and obligations specified in the Agreement.

#### **14.0 LIABILITY OF MEMBERS TO THE JV**

- 14.1 The Members hereby understand and agree that each Member shall be individually liable for any default with regard to the deliverables of his part under the terms and conditions of this Agreement.
- 14.2 Each of the Members warrants that it will indemnify and keep indemnified the other Member (s) against all legal liabilities arising out of or in connection with the performance, or otherwise, of its obligations under this Agreement.
- 14.3 In the event of it being alleged by one Member in writing that any legal liability is attributable to the other Member or to the remaining Members, the Members shall use reasonable endeavors to reach agreement on the liabilities to be borne by each of the Members, and in the event of the Members failing to so agree, a proper apportionment shall be determined by arbitration in accordance with Clause 19.

#### **15.0 INSURANCE**

- 15.1 Unless otherwise agreed by the members, each Member individually shall make all reasonable efforts to maintain insurance coverage as protection against all legal liabilities arising out of or in connection with the performance, or otherwise, of its obligations under this Agreement.
- 15.2 Each Member shall make all reasonable efforts to maintain insurance cover for public/third party liability insurance and any other insurances necessary to comply with the Supply/Works/Services Contract.

#### **16.0 PROMOTIONAL AND PROJECT COSTS, PROFITS, LOSSES AND REMUNERATION**

- 16.1 Each Member shall be reimbursed the costs and expenses incurred by it in connection with the promotion, preparation, negotiation and submission of the Proposal, as per actual expenses as provided under Schedule 3.
- 16.2 If reimbursement of promotional costs and expenses is not prescribed on the obligation between the members [Schedule 3], each Member shall bear the costs and expenses which it incurs.
- 16.3 All payments to the Members shall be made following the details provided under [Schedule 4].



- 16.4 The distribution of profits and net losses accruing to the Joint Venture shall be distributed to the parties in: *[INSERT ONE]*
- a. [Accordance with each party's respective ownership interests]
- OR**
- b. [the following proportions:
    - i. *[FIRST PARTY NAME]: [PERCENTAGE]%*
    - ii. *[SECOND PARTY NAME]: [PERCENTAGE]%*

## **17.0 FINANCIAL ADMINISTRATION AND ACCOUNTING**

- 17.1 Each Member shall be responsible for keeping its own account in respect of payments due to it and for its own financial affairs generally. Each Member shall be responsible for dealing with its own income tax affairs, and its own social security affairs; where relevant, and for accounting accordingly to the relevant authorities.
- 17.2 The Leading Member shall be responsible for the provision of Financial Administration Services as set out in [Schedule 3].

## **18.0 GUARANTEES AND BONDS**

Unless otherwise agreed by the Members, the Members severally shall provide guarantees and bonds in proportion to their respective shares in the Supply/Works/Services sufficient for the total of guarantees and bonds required of the Joint Venture by the Purchaser/Employer/Client. The Members severally shall be responsible for administration and extensions, if required, of the guarantees and bonds they have provided.

## **19.0 ARBITRATION**

Any dispute arising in connection with this Agreement which cannot be resolved amicably by the Members in accordance with the terms of this Agreement the same shall be referred to the Arbitration. The arbitration conducted in accordance with the rules of *[Insert Institution whose Rules will be used]* and at *[insert place of arbitration]*

## **20.0 NOTICES**

- 20.1 Notices under the Agreement shall be in writing and will take effect from receipt at the address stated in [Schedule 1].
- 20.2 The official address of the Joint Venture to be included on all documentation signed in the name of the Joint Venture shall be as designated in [Schedule 1] hereto or such other address as shall be agreed from time to time by the Members, subject to the requirements of the Supply/Works/Services Contract.

## 21.0 SOLE AGREEMENT AND VARIATION

- 21.1 This Agreement is the sole agreement between the Members and supersedes any previous agreements between them relating to the matters referred to herein.
- 21.2 Variations and addenda may be made to this Agreement, including the admission of new Members to the Joint Venture, by written instrument which shall be effective upon being signed by all Members (or on their behalf by their Representatives), provided that if a Member is considered by the other Member(s) to be in default pursuant to Clause 12 his agreement and signature is not required.

IN WITNESS WHEREOF the Members hereto have executed this Agreement in *[state number of copies]* identical counterparts each of which shall be deemed as original.

1. For and on behalf of  
[Name of the Leading Member firm]

Name of  
Authorized Representative: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date : \_\_\_\_\_

Seal: \_\_\_\_\_

2. For and on behalf of [Name of the Member  
firm]

Name of  
Authorized Representative \_\_\_\_\_

Designation \_\_\_\_\_

Signature: \_\_\_\_\_

Date : \_\_\_\_\_

Seal \_\_\_\_\_

## SCHEDULE 1: JOINT VENTURE AGREEMENT DATA SHEET

*[Instructions are provided, as needed, in italics.]*

*Clause Reference*

### 1.1.1 NAME AND ADDRESS OF THE PURCHASER/EMPLOYER/CLIENT:

*[Insert name and address of the Purchaser/Employer/Client.]*

### 1.1.2 COUNTRY:

United Republic of Tanzania.

### 1.1.5 other documents forms part of the agreement *[list documents]*

### 1.1.10 PROJECT BRIEF:

*[Insert project name and brief description.]*

LEAD MEMBER, REPRESENTATIVE OF JOINT VENTURE AND MEMBERS OF  
JOINT VENTURE:

### 2.1 THE NAME AND ADDRESS OF THE JOINT VENTURE

The Name and address of the Joint Venture is *[Insert the name Joint Venture]* of *[Insert the address of the Joint Venture]*

### 2.1 THE NAME AND ADDRESS OF THE MEMBER REPRESENTATIVES

The Name and address of the Member Representatives are

<i>Member</i>	<i>Representative</i>	<i>Address</i>

**2.1 THE NAME AND ADDRESS OF THE LEADING MEMBER, THE  
REPRESENTATIVE OF THE JV**

<b>Leading Member</b>		
<b>Name</b>	<b>Address</b>	<b>Representative</b>
<i>[Insert the name]</i>	<i>[Insert the address]</i>	<i>[Insert name of Representative of Lead Member/Joint Venture]</i>

**SCHEDULE 2:**  
**OBLIGATION BETWEEN THE MEMBERS**

**Clause Reference**

**4.2**

**A. Pre-Award Stage**

<i>S/No</i>	<i>Member Name</i>	<i>Member Obligation</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>

**B. Post -Award Stage**

*[Describe the obligations of each Member for post-award stage in accordance with the terms of the Supply/Works/Services Agreement to the satisfaction of the Purchaser/Employer/Client]*

<i>S/No</i>	<i>Member Name</i>	<i>Member Obligation</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>

**SCHEDULE 3**  
**PROMOTIONAL AND PROJECT COSTS, PROFITS, LOSSES AND**  
**REMUNERATIONS**

**Clauses 16.1**

**A. Pre- Award Estimated/Notional Expenses**

*[Insert estimated expenses incurred for promotion and  
preparation of proposal as hereunder]*

<u>Name of Member</u>	<u>Estimated Expenses</u>
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**B. Post -Award Stage**

*[Insert estimated expenses incurred for post award of proposal  
as hereunder]*

<u>Name of Member</u>	<u>Estimated Expenses</u>
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## SCHEDULE 4

### A. ACCOUNT NUMBERS AND BANK DETAILS OF THE MEMBERS

16.3 & 17.1 The Bank Account number and name of each member of JV:

S/No	JV Member		
	Name	Account Number	Bank Name
1	<i>[insert Member Name as it is used in JV]</i>	<i>[Insert account number of Member]</i>	<i>[Insert account number corresponding Bank name for the Member]</i>
2	<i>[insert Member Name as it is used in JV]</i>	<i>[Insert account number of Member]</i>	<i>[Insert account number corresponding Bank name for the Member]</i>
3			

### B. ACCOUNT NUMBERS AND BANK DETAILS OF THE JOINT VENTURE

The account number and Bank of the Joint Venture that will be used for payment during the contract implementation.

S/No	JV Account Details		
	Name	Account Number	Bank Name
1	<i>[insert Name of the JV Account]</i>	<i>[Insert account number of the JV]</i>	<i>[Insert account number corresponding Bank name for the JV]</i>

**Annex 5: Joint Venture Agreement Sample Form – Local and Foreign Firm/Person**

**JOINT VENTURE AGREEMENT**

THIS JOINT VENTURE AGREEMENT (hereinafter called the “Agreement”) made and entered into this .....day of the month of.....20.....by and among:

*[Name and address of the Local Firm/Person]* (hereinafter called “[*Short Name or Acronym*]”), which expression shall include its successors, legal representatives and permitted assigns, who for the purpose of this Agreement shall hereinafter called “Member”;

**AND**

*[Name and address of the Foreign Firm/Person]* (Hereinafter called the “[*Short Name or Acronym*]”), which expression shall include its successors, legal representatives and permitted assigns, who for the purpose of this Agreement shall hereinafter called “Member”.

AND (*as many as they may be as allowed in the tender documents*)

The above “Members” to *Joint Venture (JV)* for the purpose of this Agreement hereinafter individually called the “Member” and collectively called the “Members”.

**NAME FOR THE FORMED JV AND ADDRESSES**

the Members have agreed to join hands in the form of a JV to in the name of *[Name the Name of JV]*

**WHEREAS;**

- (c) the Purchaser/Employer/Client (as defined hereunder) intends to appoint /has appointed [*a Supplier/Contractor/Service Provider.*] for providing [*Name the Service whether Supply//Construction/Service.*]; hereinafter called the “Goods/Works/Services”; and
- (d) the Members have agreed to join hands in the form of a JV to provide the said [*Name the Goods/Works/Services.*]

**NOW THEREFORE**, the Members have agreed as follows:



## 22.0 DEFINITIONS

**22.1** The following words and expressions shall have the meanings assigned to them, except where the context otherwise requires:

“Purchaser”/“Employer”/“Client” means the Procuring Entity named in [Schedule 1];

"Country" means the country named in [Schedule 1] where the contract is to be implemented;

“Invitation” means the invitation of the *Purchaser/Employer/Client* to a Member or Members to submit a tender for the provision of [*Name the Supply//Construction/Service*];

“*Joint Venture*” means a combination formed between two or more tenderer in accordance with this Agreement;

*Joint Venture* Agreement, hereinafter referred to as "this Agreement", comprises the document entitled Conditions and Terms together with Schedules 1 to 4 attached there to and such other documents as may be specified in [Schedule 1] to form part of this Agreement;

“Leading Member” means the member that will take the lead in the management of the Joint Venture’s affairs and that will provide the Joint Venture’s Representative for liaison;

“Local Member” means the individual person or firm in the JV whose at least 51% of the paid-up share capital is owned by the Government or citizens of the United Republic of Tanzania and who contributes at least 50% of the key personnel and financial resources required to implement the contract;

"Members" means the individuals or firms which have agreed to form the *Joint Venture* in connection with the goods/works/services Contract;

“JV Management Committee” means committee formed by the Representatives of the JV Members with a duty to oversee the operations of the JV( formulate policies of the JV and appointing the representative of the JV);

“Project” means the proposed or actual *goods/ works/services* named in [Schedule 1] which the *Purchaser/Employer/ Client* intends or has commenced to procure and requires a supplier/a contractor/ services provider;

"Tender" means an offer, proposal or quotation prepared and submitted by the *Joint Venture* in response to the Invitation;

"Supplies"/"Works"/Services" means all the goods/works/services to be supplied/constructed/performed by the Joint Venture in accordance with requirements of the Tender and the resulting Contract;

"Contract Manager" means the person appointed by the JV Management Committee for management of the contract of the goods, works or services in accordance with Sub-Clause 7.12.

## **23.0 JOINT VENTURE**

2.8 The Members hereby establish a joint venture being an unincorporated association under the name of [*name of joint venture*] or such other name as the Members shall unanimously agree from time to time (hereinafter called the "Joint Venture") for the purposes of:

- v. preparing and submitting the tender to the Purchaser/Employer/Client;
- vi. providing any further information, the Purchaser/Employer/Client may require or negotiating with the Purchaser/Employer/Client on any matters requiring negotiation in connection with the tender;
- vii. entering into the Supply/Works/Services Contract with the Purchaser/Employer/Client, if the tender is accepted; and
- viii. *supply the goods/construct/performing all the Services* under the *Supply/Works/Services* Contract.

2.9 The Members hereby appoint the Leading Member who shall be the representative of the Joint Venture, and shall confirm the addresses of the *Joint Venture* and the addresses of the Members respectively, as stated in [Schedule 1].

2.10 Unless otherwise agreed in writing by the Members, this Agreement shall not be terminated, if a Member changes its name or is taken over by, or merged with, another company or partnership provided that such successor name, company or partnership is *a supply/a construction/an independent professional* firm acceptable to the *Purchaser/Employer/Client*.

2.11 The contribution of each party to the JV shall be as provided under the following table:

**Table: JV Contribution**

<b>S/N</b>	<b>Type of Contribution to the JV</b>	<b>Local Firm<sup>1</sup>,%</b>	<b>Foreign Firm %</b>
1.	Financial contribution		
2.	Personnel contribution		

2.12 Upon the execution of JV Agreement, each of the Members shall grant a Power of Attorney in favor of a person nominated by it as its Representative, as designated in [Schedule 1].

2.13 The Representatives of each Member will constitute the JV Management Committee of the Joint Venture. Under the Power of Attorney granted to the representatives, the Representative of each Member shall have authority to sign the JV Agreement on behalf of its firm.

2.14 The lead member shall appoint a Representative who shall be the representative of the Joint Venture in the procurement process.

#### **24.0 TENDER SUBMISSION**

24.1 The Members shall make all reasonable endeavors to obtain from the *Purchaser/Employer/Client* the award of the Supply/Works/Services tender in accordance with the conditions of the Invitation or such conditions as may subsequently be agreed between the *Purchaser/Employer/Client* and the Joint Venture.

24.2 Under the co-ordination of the Leading Member, the members shall jointly prepare and submit tender to the *Purchaser/Employer/Client*.

24.3 The Members shall cooperate with the Leading Member and perform with all reasonable skill, care and diligence their respective functions as allotted by the JV management committee until the award and signing of the Supply/Works/ Services Contract to the Joint Venture or until the satisfaction of Clause 16.

24.4 The Lead member shall grant Power of Attorney to its representative who shall have authority to submit the tender and sign the contract on behalf of and in the name of the JV. The signature of the representative of the lead member shall bind the JV in respect of all obligations and liabilities it assumes under the Contract.

24.5 Once the Tender has been submitted to the *Purchaser/Employer/Client*, no changes may be made or additional information or explanations given

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<sup>1</sup> The JV could be entered with more than one local firms

without the consent of all the Members until the Supply/Works/Services Contract is effective.

- 24.6 The JV shall enter into the Supply/Works/Services Contract with the Purchaser/Employer/Client, if it is awarded to the Joint Venture.

## **25.0 JV OBLIGATIONS TO THE CONTRACT IMPLEMENTATIONS**

- 25.1 The JV shall implement the Contract of goods / works /services entered between JV and Purchaser/Employer/Client in accordance with the terms and conditions of that Contract and this JV Agreement. In the event of any inconsistency of the Contract of goods/works/services and this JV Agreement the Contract of goods/works/services shall prevail.
- 25.2 Each Member shall be responsible for fulfilling the obligations prescribed in [Schedule 2] in accordance with the terms of the Contract of goods/works/services to the satisfaction of the Purchaser/Employer/Client.
- 25.3 The apportionment of the Joint Venture's obligations between the Members in accordance with [Schedule 2] can be amended by agreement between the Members, subject to the consent of the Purchaser/Employer/Client.
- 25.4 If required, any alterations or additions to the goods/works/services to be supplied/performed/provided under the Contract of goods/works/services shall be made with the consent or on the instructions of the Purchaser/Employer/Client. The responsibility for carrying out additional obligations shall be as agreed between the Members.

## **26.0 LANGUAGE AND LAW**

- 26.1 The Joint Venture Agreement shall be in English Language.
- 26.2 This Agreement shall be governed by the Laws of Tanzania.

## **27.0 EXCLUSIVITY**

Unless otherwise agreed by the Members, no Member shall engage in any activity related to the Project, other than as a Member of the Joint Venture and in accordance with the terms and conditions of this Agreement. Each Member warrants that its subsidiaries and other firms or individuals over which it has control will comply with this requirement.

## **28.0 EXECUTIVE AUTHORITY**

- 28.1 No Member shall have authority to bind or to make any commitment on behalf of the Joint Venture or of any other Member unless such authority is expressed in writing by the Members jointly in regard to the Joint Venture, or by a Member individually in regard to the (other) Member.
- 28.2 From the date of this Agreement until the award of the Goods/Works/Services Contract to the Joint Venture or until this Agreement terminate in accordance with its terms, whichever is the earlier, the following matters shall require the unanimous consent of the Members:
- for the purpose of submitting the Tender, the respective responsibilities and obligations to be undertaken by the Members subject to the conditions of the Invitation;
  - for the purpose of submitting the Tender, terms and conditions comprised in the Tender as applicable to the Joint Venture generally, and to the Members separately, subject to the conditions of the Invitation; and
  - any communication to, or response to communication from, the Purchaser/Employer/Client either written or oral and any commitment of any kind to the Purchaser/Employer/Client or any other party in connection with the Tender.
- 28.3 From the date of the award of the Goods/Works/Services Contract to the Joint Venture, decisions on the policies of the Joint Venture shall be vested in a JV Management Committee comprising the Representative of each of the Members specified in accordance with Sub-Clause 2.6.
- 28.4 Each Member shall provide notice of its Representative on the JV Management Committee to other Member of the JV and shall give prior notice of any change in such appointment (s), temporary or otherwise, as may occur from time to time.
- 28.5 The representative of the Leading Member on the JV Management Committee shall be the Chairman of the Committee. The Chairman shall ordinarily convene the meetings of the Committee and may invite others whom he wishes to attend, in order to inform or advise the Representatives, or to record the proceedings of the Committee.
- 28.6 In the event of disagreement between members of the JV Management Committee on matters not otherwise prescribed in this Agreement the Chairman shall be entitled to use a casting vote.

- 28.7 Meetings of the JV Management Committee shall take place at least [*State Number of Meetings*] unless otherwise agreed by the Members. A Member may convene a meeting of the Committee at any time by giving at least seven calendar days' notice in writing to the Members.
- 28.8 Minutes of the meetings shall be kept, in English language and all meeting of the JV Management Committee and copies of all such minutes shall be circulated to the Members.
- 28.9 The Members respectively agree to act (and agree that their respective representatives on the JV Management Committee shall act) at all times in the best interests of the Joint Venture in taking any actions relating to the Project and shall use all reasonable endeavors to settle any disputes arising between them in connection with the Joint Venture.
- 28.10 Unless otherwise agreed by the Members, the Leading Member shall have power to appoint Contract Manager ,subsequently remove him from that position and appoint a replacement.
- 28.11 The JV shall notify in writing the Purchaser/Employer/Client of the appointment, removal or replacement of Contract Manager.
- 28.12 The Contract Manager shall manage and supervise the implementation of the Goods/Works/Services Contract in accordance with the directions of the JV Management Committee, and shall report to the JV Management Committee on the performance and progress of the contract as and when required by that Committee.
- 28.13 Each Member may appoint a Local Representative in each locality where that Member is to work. The Local Representative of a Member shall be responsible for the obligations to be undertaken by it in the said locality and for performance of its responsibilities in that locality under this Agreement.
- 28.14 Each Member shall notify the other of its Local Representative and responsibilities assigned to him and shall give prior notice of any change in such appointment (s) or assignment (s) of responsibilities as may occur from time to time.
- 28.15 The Local Representatives shall work under the supervision of the Contract Manager.

## **29.0 DOCUMENTS**

- 29.1 All documents produced by a Member or the Members in connection with the Project which are made available to persons other than the Members shall bear the name of the Joint Venture.
- 29.2 All documents prepared by either of the Members in connection with the implementation of Goods/Works/Services Contract, and which are submitted to the Client or are to be made available to third parties, shall be signed by the Authorized representative of Lead Member.
- 29.3 Each Member shall have unrestricted access to any activity of the project carried out by the Members in connection with the Contract of Goods/Works/Services
- 29.4 Copies of all documents submitted to the Purchaser/Employer/Client by or on behalf of the Joint Venture by a Member shall be circulated to the Members as soon as reasonably practicable following such submission.
- 29.5 During the period of this Agreement and after the termination of the Agreement without limit in point of time, no Member shall disclose to any person any information which it obtains through its participation in the Joint Venture (and shall ensure that its employees shall observe such restrictions) unless the said information:
- becomes public knowledge;
  - must be disclosed for the proper supply/construction/ performance of the Goods/Works/Services; or
  - is published with the approval of the Joint Venture and, when required under the Goods/Works/Services Contract, of the Purchaser/ Employer/Client.
- 29.6 Before completion of the project, no Member shall utilize photographs, or other data describing the Project, in promoting its own business, without the approval of the other Member(s).
- 29.7 Except as may be otherwise provided under the Goods/Works/Services Contract, the copyright in documents produced by a particular Member in connection with the Project is granted to the Members and each Member hereby licenses the Members to use and reproduce documents produced by it.
- 29.8 Except as provided in Sub-Clause 8.6, each Member shall indemnify the Members against all claims, liabilities, damages, costs and expenses

sustained as a result of reusing the designs, drawings and other documents produced for the Project on other projects.

### **30.0 PERSONNEL**

- 30.1 Each Member shall assign a sufficient number of its employees to the Project so that the provisions of this Agreement are complied with and the Goods/Works/Services are supplied/constructed/carried out in accordance with the Goods/Works/Services Contract. Unless specifically agreed otherwise, the Joint Venture shall have no employees of its own.
- 30.2 Each Member shall be responsible for all actions of its staff and shall continue to be responsible in all ways for its own obligations as employer of its employees.
- 30.3 Notwithstanding the foregoing provisions of this Clause, each Member may allow; any person, firm or corporation over which it exercises management control; subject to the approval of the other Members, to fulfill any of the obligations for which it is responsible under this Agreement provided that, in such circumstances, the control of and responsibility for those obligations shall at all times remain vested in the Member.
- 30.4 Each Member may be entitled to invite, subject to the approval of the Purchaser/Employer/Client (if required) and to the agreement of the Members, sub-contractor to carry out any of that Member's obligations, provided that in such circumstances the control of and responsibility for undertaking those obligations shall at all times remain vested in the Member in question.

### **31.0 ASSIGNMENT AND THIRD PARTIES**

- 31.1 No Member shall sell, assign, mortgage, pledge, transfer or in any way dispose of any rights or interests under this Agreement, or its interests in any sums payable by the Purchaser/Employer/Client other than by a change in favour of its bankers of any monies due or to become due under the Goods/Works/Services Agreement Contract, without the prior written consent of the Members.
- 31.2 This Agreement is exclusively for the benefit of the Members and shall not be construed as conferring, either directly or indirectly, any rights or causes of action upon third parties.

### **32.0 SEVERABILITY**

- 32.1 If any part of any provision of this Agreement is found by an arbitrator or Court or other competent authority to be void or unenforceable, such part of the



provision shall be deemed to be deleted from this Agreement and the remainder of such provision and the remaining provisions of this Agreement shall continue to be in full force and effect.

- 32.2 Notwithstanding the foregoing, the Members shall thereupon negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the part of the provision found to be void or unenforceable.

### **33.0 MEMBER IN DEFAULT**

- 33.1 In the event of insolvency of a Member, the other Member [or remaining Member (s) of rest of JV] is hereby irrevocably constituted and appointed to act for it in all matters affecting performance of this Agreement.
- 33.2 A Member that delays or fails to fulfill its obligations in whole or in part under this Agreement shall be deemed in default and shall indemnify the other Member (s) in respect of the consequences.
- 33.3 A notice in writing from the Purchaser/Employer/Client that the performance of obligations under the Supply/Works/Services Contract is unsatisfactory or that the continued involvement of a Member is no longer required in whole or in part shall for the purposes of this Clause mean that the Member concerned is in default unless otherwise agreed by the other Member(s).
- 33.4 If the default of a Member shall be such that the Member in question shall be substantially in breach of its obligations hereunder, the other Member(s) shall be entitled to reassign the work concerned.
- 33.5 Any actions taken by the other Member against the defaulting Member pursuant to the preceding Sub-Clauses of hereof shall be without prejudice to any rights to which he may be entitled at law against the defaulting Member.
- 33.6 If a reassignment of work under the Supply/Works/Services Contract is made in accordance with this Clause, the defaulting Member shall not obstruct the Member who undertakes the reassigned work and shall provide him with access to all documents and information necessary for its proper performance.
- 33.7 Any sums received by the Joint Venture in payment for the defaulting Member's obligations already undertaken shall be used to compensate any loss or damage resulting from the default of that Member. The defaulting Member shall remain responsible for providing guarantees and bonds relevant

to the obligations allocated to that Member prior to such reassignment until the completion of the Supply/Construction/Services.

33.8 If all of the defaulting Member's obligations are reassigned in accordance with this Clause, the other Member(s) shall be entitled to and shall:

33.8.1 carry on and complete the implementation of the Supply/Works/Services Contract without the participation of the defaulting Member, its successors, receivers or other legal representatives and continue to act in accordance with the terms of this Agreement (as amended to take account of the non-participation of the defaulting Member); and

33.8.2 retain for the implementation of the Supply/Works/Services Contract all equipment and materials purchased therefore and all assets owned by the Joint Venture at the time of the default by the defaulting Member until the completion of the Supply/Works/Services.

33.8.3 The defaulting Member, its successors, receivers or other legal representatives shall execute and do all deeds, documents and things necessary to enable the said equipment and materials to continue to be so used and to enable the Joint Venture to continue without involvement of the defaulting Member.

33.9 Upon completion or earlier termination of the Supply/Works/Services Contract and receipt of all amounts due thereunder, the remaining Member(s) shall account to the Member in default which shall be entitled to receive an amount equal to any sums provided by the defaulting Member towards any general funds which shall not previously have been expended, plus such Member's share of any funds of the Joint Venture due to it, reduced by any losses or damage occasioned by its default.

33.10 In the event that the share of the losses chargeable to the defaulting Member exceeds any sums provided by the defaulting Member to any general funds and the share of any funds of the Joint Venture due to it in accordance with the terms of this Agreement, the defaulting Member shall promptly pay the excess to the remaining Member(s).

#### **34.0 DURATION OF THE JV AGREEMENT**

34.1 If it has been jointly established by the Members that the Tender will not be accepted by the Purchaser/Employer/Client or if it has not been accepted by the Purchaser/Employer/Client within the period allowed for acceptance in accordance with the Tender or any extension of that period subsequently

agreed between the Purchaser/Employer/Client and the Joint Venture, this Agreement shall thereupon terminate forthwith.

- 34.2 If the Tender is accepted by the Purchaser/Employer/Client, this Agreement shall continue to have full force and effect and shall continue the same when the Supply/Works/Services Contract is entered into with the Purchaser/Employer/Client, until confirmation has been received from the Purchaser/Employer/Client that the Supply/ W o r k s / Services have been completed, or the Supply/Works/Services Contract has been terminated, and all accounts relating to the Services between the Joint Venture, the Client and third parties and between the Members are acknowledged as settled.
- 34.3 Provided that the terms of this Agreement shall nevertheless continue to bind the Members to such extent and for so long as may be necessary to give effect to the rights and obligations specified in the Agreement.

### **35.0 LIABILITY OF MEMBERS TO THE JV**

- 35.1 The Members hereby understand and agree that each Member shall be individually liable for any default with regard to the deliverables of his part under the terms and conditions of this Agreement.
- 35.2 Each of the Members warrants that it will indemnify and keep indemnified the other Member (s) against all legal liabilities arising out of or in connection with the performance, or otherwise, of its obligations under this Agreement.
- 35.3 In the event of it being alleged by one Member in writing that any legal liability is attributable to the other Member or to the remaining Members, the Members shall use reasonable endeavors to reach agreement on the liabilities to be borne by each of the Members, and in the event of the Members failing to so agree, a proper apportionment shall be determined by arbitration in accordance with Clause 19.

### **36.0 INSURANCE**

- 36.1 Unless otherwise agreed by the members, each Member individually shall make all reasonable efforts to maintain insurance coverage as protection against all legal liabilities arising out of or in connection with the performance, or otherwise, of its obligations under this Agreement.
- 36.2 Each Member shall make all reasonable efforts to maintain insurance cover for public/third party liability insurance and any other insurances necessary to comply with the Supply/Works/Services Contract.

### **37.0 PROMOTIONAL AND PROJECT COSTS, PROFITS, LOSSES AND REMUNERATION**

- 37.1 Each Member shall be reimbursed the costs and expenses incurred by it in connection with the promotion, preparation, negotiation and submission of the Proposal, as per actual expenses as provided under Schedule 3.
- 37.2 If reimbursement of promotional costs and expenses is not prescribed in the obligation between the members [Schedule 2] each Member shall bear the costs and expenses which it incurs.
- 37.3 All payments to the Members shall be made in accordance with details provided under [Schedule 4].
- 37.4 The distribution of profits and net losses accruing to the Joint Venture shall be distributed to the parties in: *[INSERT ONE]*
- c. [Accordance with each party's respective ownership interests]
  - OR**
  - d. [the following proportions:
    - i. *[FIRST PARTY NAME]: [PERCENTAGE]%*
    - ii. *[SECOND PARTY NAME]: [PERCENTAGE]%*

### **38.0 FINANCIAL ADMINISTRATION AND ACCOUNTING**

- 38.1 Each Member shall be responsible for keeping its own account in respect of payments due to it and for its own financial affairs generally. Each Member shall be responsible for dealing with its own income tax affairs, and its own social security affairs; where relevant, and for accounting accordingly to the relevant authorities.
- 38.2 The Leading Member shall be responsible for the provision of Financial Administration Services as set out in [Schedule 3].

### **39.0 GUARANTEES AND BONDS**

Unless otherwise agreed by the Members, the Members severally shall provide guarantees and bonds in proportion to their respective shares in the Supply/Works/Services sufficient for the total of guarantees and bonds required of the Joint Venture by the Purchaser/Employer/Client. The Members severally shall be responsible for administration and extensions, if required, of the guarantees and bonds they have provided.

## 40.0 ARBITRATION

Any dispute arising in connection with this Agreement which cannot be resolved amicably by the Members in accordance with the terms of this Agreement the same shall be referred to the Arbitration. The arbitration conducted in accordance with the rules of *[Insert Institution whose Rules will be used]* and at *[insert place of arbitration]*

## 41.0 NOTICES

41.1 Notices under the Agreement shall be in writing and will take effect from receipt at the address stated in [Schedule 1].

41.2 The official address of the Joint Venture to be included on all documentation signed in the name of the Joint Venture shall be as designated in [Schedule 1] hereto or such other address as shall be agreed from time to time by the Members, subject to the requirements of the Supply/Works/Services Contract.

## 42.0 SOLE AGREEMENT AND VARIATION

42.1 This Agreement is the sole agreement between the Members and supersedes any previous agreements between them relating to the matters referred to herein.

42.2 Variations and addenda may be made to this Agreement, including the admission of new Members to the Joint Venture, by written instrument which shall be effective upon being signed by all Members (or on their behalf by their Representatives), provided that if a Member is considered by the other Member(s) to be in default pursuant to Clause 12 his agreement and signature is not required.

IN WITNESS WHEREOF the Members hereto have executed this Agreement in *[state number of copies]* identical counterparts each of which shall be deemed as original.

1. For and on behalf of  
[Name of the Leading Member firm]

Name of  
Authorized Representative: \_\_\_\_\_

Designation: \_\_\_\_\_

Signature: \_\_\_\_\_

Date : \_\_\_\_\_

Seal: \_\_\_\_\_

2. For and on behalf of [Name of the Member firm]

Name of  
Authorized Representative \_\_\_\_\_

Designation \_\_\_\_\_

Signature:

Date : \_\_\_\_\_

Seal \_\_\_\_\_

## **SCHEDULE 1: JOINT VENTURE AGREEMENT DATA SHEET**

*[Instructions are provided, as needed, in italics.]*

*Clause Reference*

### **1.1.3 NAME AND ADDRESS OF THE PURCHASER/EMPLOYER/CLIENT:**

*[Insert name and address of the Purchaser/Employer/Client.]*

### **1.1.4 COUNTRY:**

United Republic of Tanzania.

### **1.1.5 other documents forms part of the agreement *[list documents]***

### **1.1.10 PROJECT BRIEF:**

*[Insert project name and brief description.]*

LEAD MEMBER, REPRESENTATIVE OF JOINT VENTURE AND MEMBERS OF  
JOINT VENTURE:

### **2.1 THE NAME AND ADDRESS OF THE JOINT VENTURE**

**The Name and address of the Joint Venture is** *[Insert the name Joint Venture]* of *[Insert the address of the Joint Venture]*

### **2.1 THE NAME AND ADDRESS OF THE MEMBER REPRESENTATIVES**

**The Name and address of the Member Representatives are**

<i>Member</i>	<i>Representative</i>	<i>Address</i>

**2.1 THE NAME AND ADDRESS OF THE LEADING MEMBER, THE  
REPRESENTATIVE OF THE JV**

Leading Member		
Name	Address	Representative
<i>[Insert the name]</i>	<i>[Insert the address]</i>	<i>[Insert name of Representative of Lead Member/Joint Venture]</i>



**SCHEDULE 2:  
OBLIGATION BETWEEN THE MEMBERS**

**Clause Reference**

**4.2**

**C. Pre-Award Stage**

<i>S/No</i>	<i>Member Name</i>	<i>Member Obligation</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for pre-award stage]</i>

**D. Post -Award Stage**

*[Describe the obligations of each Member for post-award stage in accordance with the terms of the Supply/Works/Services Agreement to the satisfaction of the Purchaser/Employer/Client]*

<i>S/No</i>	<i>Member Name</i>	<i>Member Obligation</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>
	<i>[insert Member Name as it is used in JV]</i>	<i>[Describe the obligations of each Member for post-award stage]</i>

**SCHEDULE 3**  
**PROMOTIONAL AND PROJECT COSTS, PROFITS, LOSSES AND**  
**REMUNERATIONS**

**Clauses 16.1**

**C. Pre- Award Estimated/Notional Expenses**

*[Insert estimated expenses incurred for promotion and  
preparation of proposal as hereunder]*

<u>Name of Member</u>	<u>Estimated Expenses</u>
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**D. Post -Award Stage**

*[Insert estimated expenses incurred for post award of proposal  
as hereunder]*

<u>Name of Member</u>	<u>Estimated Expenses</u>
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## SCHEDULE 4

### C. ACCOUNT NUMBERS AND BANK DETAILS OF THE MEMBERS

16.3 & 17.1 The Bank Account number and name of each member of JV:

S/No	JV Member		
	Name	Account Number	Bank Name
1	<i>[insert Member Name as it is used in JV]</i>	<i>[Insert account number of Member]</i>	<i>[Insert account number corresponding Bank name for the Member]</i>
2	<i>[insert Member Name as it is used in JV]</i>	<i>[Insert account number of Member]</i>	<i>[Insert account number corresponding Bank name for the Member]</i>
3			

### D. ACCOUNT NUMBERS AND BANK DETAILS OF THE JOINT VENTURE

The account number and Bank of the Joint Venture that will be used for payment during the contract implementation.

S/No	JV Account Details		
	Name	Account Number	Bank Name
1	<i>[insert Name of the JV Account]</i>	<i>[Insert account number of the JV]</i>	<i>[Insert account number corresponding Bank name for the JV]</i>

## Annex 6: PROCEDURE FOR CALCULATION FINANCIAL SCORE FOR CONSULTANCY

Calculation of Financial Score Based on the financial proposal assigned to local firm										
Consultant	Group	financial proposal, TZS	% finances going to Local firm	Financial Weight	Fixed Financial Weight	Variable Financial Weight	Proportion of Variable Weight	Calculated Financial Weight	Calculated Financial Score, $F_s$	FS
		a	b	c	$d = c - 5\%$	e	g if $b \geq 50\%$ , $e = 5\%$ of FW; if $b < 50\%$ , $g = e * b / 50\%$	$h = d + g$	$i = (a_{min} / a) * h$	
Consultant - 1	Group A	20,000,000.00	100%	25	23.75	1.25	1.25	25	22.34	89.36
Consultant - 2	Group B1 (30%)	20,120,000.00	70%	25	23.75	1.25	1.25	25	22.21	88.83
Consultant - 3	Group B2 (10%)	20,000,000.00	90%	25	23.75	1.25	1.25	25	22.34	89.36
Consultant - 4	Group C (9%) SUB	17,983,800.00	9%	25	23.75	1.25	0.225	23.975	23.83	99.38
Consultant - 5	Group C (30%) SUB	17,872,400.00	30%	25	23.75	1.25	0.75	24.5	24.50	100.00
Consultant - 6	Group C (22%) SUB	18,212,160.00	22%	25	23.75	1.25	0.55	24.3	23.85	98.13
Consultant - 7	Group C (15%) SUB	18,943,000.00	15%	25	23.75	1.25	0.375	24.125	22.76	94.35

## Annex 7: AVERAGE ANNUAL TURNOVER

Minimum average annual construction turnover, calculated as total certified payments received for contracts in progress and/or completed within the last (*insert number of years*) years. The PE shall consider a tenderer's turnover as meeting the requirements if the submitted turnover reflects the average annual construction turnover over the specified period, regardless of whether the turnover was attained in each individual year of that period, or in a single year during the specified period. Tenderers' average annual turnover over a period of time shall not be less than 50% of its tender price.

	Annual Turnover Submitted by Tenderer			Tender PRICE	Estimated Contract Duration in Days	Estimated Contract Duration in years	Estimated Annual Tender Production	50% of Estimated Annual Tender Turnover	Evaluation STATUS	
	Year 1	Year 2	Year 3							
	a	b	c							
				d = (a + b + c)/3	e	f	g =f/365	h=e/g	(i) = h/2	(j)
Tenderer 1	14,100,000,000	9,500,000,000	12,400,000,000	12,000,000,000	12,500,000,000	220	0.60	20,738,636,364	10,369,318,182	PASS
Tenderer 2	-	5,000,000	67,789	1,689,263	12,600,000,000	730	2.00	6,300,000,000	3,150,000,000	FAIL
Tenderer 3	20,000,000	5,000,000	-	8,333,333	10,980,000,000	240	0.66	16,698,750,000	8,349,375,000	FAIL
Tenderer 4	-	-	30,900,000,000	10,300,000,000	9,898,005,000	420	1.15	8,601,837,679	4,300,918,839	PASS
Tenderer 5	3,000,000,000	5,500,000,000	4,500,000	2,834,833,333	11,400,000,000	365	1.00	11,400,000,000	5,700,000,000	FAIL

Column (j)=PASS if (d) is greater or equal to (i) otherwise, FAIL