



September 3rd 2020

USAID'S MALARIA ACTION PROGRAM FOR DISTRICTS

REQUEST FOR PROPOSAL (RFP) FOR RENOVATION OF WABUSANA HEALTH CENTRE III IN LUWERO DISTRICT UGANDA

Procurement Ref: MAPD/005/2020

Bidding Documents for Works

- Volume 1: Solicitation Document**
- Volume 2: Technical Specifications**
- Volume 3: Drawings**
- Volume 4: Bills of Quantities**

VOLUME 1: SOLICITATION DOCUMENT

MALARIA CONSORTIUM UGANDA

Issued: *[September 2020]*

SPECIFICATIONS AND INSTRUCTIONS TO BIDDERS

A. Malaria Consortium

Malaria Consortium received funding from USAID/PMI to implement a five-year project; USAID's Malaria Action Program for Districts. This project aims at preventing and controlling malaria illnesses and deaths in order to minimize the social economic effects of the disease among the overall population of Uganda and especially in children under five years of age. The project started in August 2016, and is covering 49 districts with a total population of more than 13 million.

Malaria has a significant negative impact on the economy of Uganda due to loss of workdays because of sickness, decreased productivity, and decreased school attendance. A single episode of malaria costs a family on average 9 US dollars, or 3% of their annual income. Workers suffering from malaria may be unable to work for an estimated 5-20 days per episode. Given that many people are infected multiple times a year, this has substantial financial consequences to families. A poor family in a malaria endemic area may spend up to 25% of the household income on malaria prevention and treatment. Industries and agriculture also suffer due to loss of person-hours and decreased worker productivity. Investors are generally wary of investing in countries where malaria rates are high, leading to a loss in investment opportunities. Further, severe malaria impairs children's learning and cognitive ability by as much as 60%, consequently affecting the performance of Uganda's universal primary and secondary education programs.

Malaria Consortium is one of the world's leading non-profit organizations specializing in the comprehensive prevention, control and treatment of malaria and other communicable diseases among vulnerable and under privileged populations. Malaria Consortium increasingly finds that work on malaria can be effectively integrated with other similar public health interventions for greater impact and therefore expanded our remit to include child health and neglected tropical disease interventions.

Working with the Government of Uganda, USAID's Malaria Action Program for Districts aims to ensure that malaria will no longer be the major cause of illness and death in the country and that families will have universal access to malaria prevention, diagnostic and treatment interventions. The purpose of the program is to prevent and control malaria morbidity and mortality in Uganda through a range of activities, which will result in minimizing the social impact and economic losses on those affected. The success of this programme will also contribute to the reduction of under-five mortality rate from all causes, as a result of reduced malaria infection.

Malaria Consortium is the prime contractor for USAID/PMI's Uganda's Malaria Action Program for Districts. Sub-contractors (Implementing Partners) in the delivery of this programme are Jhpiego, Banyan Global, Communication for Development Foundation Uganda (CDFU), Deloitte (Uganda) Limited, Infectious Diseases Institute (IDI) and Infectious Diseases Research Collaboration (IDRC). **Malaria Consortium will be the Contracting Party.**

B Administrative Information

- B1) . As part of the capacity building component to manage and sustain efficient malaria activities, MAPD will support selected Health Centers through small-scale infrastructure renovations. The renovations will focus on improving antenatal spaces, waiting areas and laboratories.

The Building Works shall consist of:

- Re-modelling or renovation of Out-Patients Department (OPD) buildings;
- Improvement of waiting areas;
- Improvement of Antenatal (ANC) areas in Maternity buildings;
- Limited sanitation facilities
- Limited external works

- B2. This Invitation to RFP is for the **proposed Small Works at Wabusana Health Center III, Luwero District** located in the Central region in Uganda.

- B3. Malaria Consortium now invites sealed bids from eligible and suitably qualified Bidders for the proposed renovation (Small) Works. Bidding will be conducted in accordance with the Malaria Consortium procedures on eligibility, compliance and capacity requirements as acceptable to the Client/Financier.
- B4. Some of the key qualification criteria shall include but not limited to the following:

Criteria	Minimum requirement (pass/fail basis)
Eligibility	As indicated in bidding documents
Audited Books of Accounts	For the last three (3) years
Annual turnover in any of the last three years	UGX 1.0 billion
Average volume of construction work concluded over the last three years	UGX 1.0 billion
Successful experience as prime contractor in the execution of health infrastructure projects completed within the last five years	at least three (3) projects totaling not less than UGX 1.0 billion
Specific work experience	Building works involving re-modelling and renovations of existing buildings
Key site equipment for building works	Owned or Leased with proof
Key personnel (with Signed Curriculum Vitae for all key personnel required)	Contract Managers & Site Engineers should possess relevant technical qualifications and minimum 10 years of practical experience in works of similar nature.
Liquid Assets or credit lines available for use to pre-finance the project works	Minimum of UGX 300 Million
Documented policies	Health, safety and environmental compliance

- B5. Due diligence may be done at any stage of the entire procurement process. **Pre-Award Assessment** will be carried out as part of bid evaluation. **Misrepresentation and/or falsification Of any information submitted at any stage shall lead to automatic disqualification.**
- B6. The language for communication and required documents for bidding and contracts is English. Interested eligible bidders may obtain further information and/or inspect the bidding documents at the address given below from 12:00 noon to 4:00pm (Local time) during working days, excluding weekends.
- B7. There shall be a pre – bid meeting **at Site at Wabusana Health Center, Luwero District on [23rd September 2020] at 10:00am**. This is mandatory for all interested bidders;
- B8. Each bid must be accompanied by a Bid security of Uganda shillings Ten million (UGX 10,000,000).
- B9. Sealed bid submissions clearly marked with the Procurement reference number and labeled as “[**Subject of Procurement**]” must be delivered at or before **10:00am (local time) on [30th September 2020]** to the Contracting Party’s address at:
- USAID’s Malaria Action program for Districts (MAPD) offices at Plot 3 Katonga Road, Nakasero Attention: Director Finance and Administration**
- B10) Bids must be received by **30th September 2020 at 10:00am**. Bids submitted after the deadline will **NOT** be accepted.
- B11) Bids opening will take place **30th September 2020 from 10:30am in the MAPD boardroom**. Vendors are welcome to witness the bid opening circumstances allowing.

- B12) Questions must be sent by email to tenders@malariaconsortium.org with the following bid reference in the subject: MC-UG MAPD/005/2020 Wabusana HC III Renovation-Question'
- B13) Malaria Consortium shall notify the winning bidders in writing within seven (7) working days after bid evaluation. Malaria Consortium is under no obligation to release the identity or contract terms of the winning vendor.
- B14) Malaria Consortium reserves the right to accept or reject any or all bids, and to accept the bid deemed to be in the best interest of Malaria Consortium, and is not bound to accept the lowest priced bid submitted.
- B15) The planned procurement schedule is as follows:

Activity	Tentative Latest Date
(a) Invitation for bids (Second Call for Tenders)	8 th September 2020
(b) Pre-bid meeting	23 rd September 2020
(c) Deadline for submission of bids	30 th September 2020
(d) Bid Evaluation and Pre-award Assessment	1 month after bid submission
(e) Forming of Contracts	1 month after bid submission
(f) Site handover for works commencement	2 weeks after contract signing

Instruction to Bidders

B16) Scope of Bid

- 16.1 The **Contracting Party** namely **Malaria Consortium**, invites bids Renovation Works under the USAID's Malaria Action Programme for Districts (**MAPD**)
- 16.2 (a) The name of this procurement/ contract is:
- THE PROPOSED RENOVATION WORKS AT WABUSANA HEALTH CENTER III,
LUWERO DISTRICT IN UGANDA**
- (b) The procurement reference number of the Contract is :
MAPD/005/2020
- 16.3 The **planned Building works** at the selected Health Center for which bids are invited consist of:
-) **Re-modelling or renovation of Out-Patients Department (OPD) building;**
 -) **Improvement of Waiting areas;**
 -) **Improvement of Antenatal (ANC) areas in Maternity buildings;**
 -) **Limited sanitation facilities**
 -) **Limited external works**
- 16.4 Throughout this Bidding Document:
- (a) "Bidder" means a physical or artificial person or entity participating in this procurement;
 - (b) "Bid" means an offer to provide Works, Services or Supplies or any combination thereof for construction of Works under MAPD;
 - (c) "Beneficiary" means the Government of Uganda represented by the Ministry of Health. Where required, the beneficiary District or Health Centre may be indicated;
 - (d) "Client" means Malaria Consortium implementing MAPD;
 - (e) "Contractor" means the provider;
 - (f) "Contracting Party" means Malaria Consortium;
 - (g) "Day" shall mean calendar day unless otherwise specified
 - (h) "Employer" means Malaria Consortium;

- (i) "Month" shall mean calendar month unless otherwise specified
- (j) "Project Manager" means Deloitte (Uganda) Limited;
- (k) "Supervisor for Works" means Deloitte (Uganda) Limited responsible for professionals engaged for technical responsibility for Works;
- (l) "Works" means any work associated with the construction, reconstruction, demolition, repair, or renovation of a building or structure, on the surface or underground, on and underwater, and includes the preparation, excavation, erection, assembly, installation, testing and commissioning of any plant, equipment or materials, decoration and finishing, turnkey projects, build own and operate projects, build operate and transfer projects or any arrangement of this nature, or any other form of private and public partnerships or joint development activities, all or any of which may include management, maintenance, testing, commissioning and training; as well as supplies or services incidental to those works where the value of the incidental supplies or services does not exceed the value of the works

16.5 (a) The successful Bidders will be expected to complete the Works by the intended completion Dates specified as: **8 months from Contract Start date.**

(b) Bidders will be required to submit with the Bid, a **detailed works programme and work method statement** indicating clear milestones for successful contract execution;

(c) The location of the site is **Wabusana Health Centre III, Kikyusa sub county, Luwero district.** The site is approximately 25km from the Luwero district headquarters or 85km from Kampala.

B17). Source of Funds

17.1 Malaria Consortium will manage an approved grant provided by USAID towards the cost of the procurement as described herein. Malaria Consortium intends to use these funds for payments under contract(s) placed under MAPD resulting from this bidding process for which this bidding document is issued.

17.2 Payments will be made directly by Malaria Consortium and will be subject in all respects to the terms and conditions of the resulting contract placed by Malaria Consortium.

B18). Corrupt Practices

Malaria Consortium requires that all providers and stakeholders involved in this procurement observe the highest standards of ethics during procurement and the execution of contracts.

- (a) Malaria Consortium defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any official in the procurement process or in contract execution; and
 - (ii) "fraudulent practice" includes a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Malaria Consortium, and includes collusive practices among Bidders prior to or after bid submission designed to establish bid prices at artificial, non-competitive levels and to deprive the Malaria Consortium and the Client of the benefits of free and open competition;
- (b) Malaria Consortium will not place a contract with any bidder who is determined to have engaged in corrupt or fraudulent practices in competing for the Contract.

B19). Eligible Bidders

19.1 A Bidder, and all parties constituting the Bidder, shall meet the following criteria to be eligible to participate in this procurement:

- (a) the bidder is based and operating in Uganda;

- (b) the bidder has the legal capacity to enter into a contract;
- (c) the bidder is not:
 - (i) insolvent;
 - (ii) in receivership;
 - (iii) bankrupt; or
 - (iv) being wound up
- (d) the bidder's business activities have not been suspended by any competent authority;
- (e) the bidder is not the subject of legal proceedings for any of the circumstances in (b); and
- (f) the bidder has fulfilled his or her obligations to pay taxes and social security contributions.**

19.2 A Bidder may be a natural person or an entity with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. For Joint ventures, consortia and associations, all parties shall be severally liable and shall comply with the requirements indicated in this document.

19.3 (a) A Bidder, and all parties constituting the Bidder including sub-contractors, shall have the nationality of an eligible country. All countries are eligible except countries subject to the following provisions. A country shall not be eligible if:

- (i) as a matter of law or official regulation, USAID or the Government of Uganda prohibits commercial relations with that country, provided that the USAID or Government of Uganda is satisfied that such exclusion does not preclude effective competition for the provision of supplies or related services required; or
- (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, USAID or the Government of Uganda prohibits any import of Supplies from that country or any payments to persons or entities in that country.

(b) A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to any proposed subcontractors for any part of the Contract.

19.4 A Bidder, and all parties constituting the Bidder including sub-contractors, shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they:

- (a) have controlling shareholders in common; or
- (b) receive or have received any direct or indirect subsidy from any of them; or
- (c) have the same legal representative for purposes of any lot in this bid; or
- (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Malaria Consortium regarding this bidding process; or
- (e) submit more than one bid in this bidding process. This also applies to subcontractors participating in more than one bid simultaneously.

19.5 A firm that is under a declaration of suspension by a competent Authority, at the date of the deadline for bid submission or thereafter, shall be disqualified.

19.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Malaria Consortium, whenever requested by the Malaria Consortium.

B20). One Bid per Bidder

(a) Each Bidder shall submit only one Bid.

A Bidder who submits or participates in more than one bid for the same procurement will cause all the bids with the Bidder's participation to be rejected

B21). **Cost of Bidding, Site visits and pre-bid meeting**

21.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid. Malaria Consortium shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

21.2 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.

The Bidder will be required to provide with the Bid, written evidence from the In-charge (or his/her delegated representative) of the Health Center indicating that the Bidder inspected the Health Center facilities, for which the bid is submitted.

21.3 There shall be a pre – bid meeting on **[23rd September 2020]** at **10:00 am** (Local time) at: **Site at Wabusana Health Center, Luwero District**. This is mandatory for all interested bidders.

B22). The Bidding Document, Clarification and amendments

22.1 The Bidding documents comprise the following:

VOLUME 1	SOLICITATION DOCUMENT: J Instructions to Bidders (ITB) J Sample Bidding Templates and Formats J Draft Contract provisions
VOLUME 2	TECHNICAL SPECIFICATIONS
VOLUME 3	DRAWINGS
VOLUME 4	BILLS OF QUANTITIES

22.2 The Bid Notice or any other notice related to this procurement duly issued shall be part of the Bidding Document;

22.3 Interested eligible bidders may obtain further information and/or obtain the bidding documents

on line via e-mail at tenders@malariaconsortium.org

22.4 Bidding documents shall be obtained free of charge and no cost should be paid for them.

22.5 Any clarifications required regarding this bidding process shall be sought in accordance with the Bidding documents. A prospective Bidder requiring any clarification of the bidding documents shall notify Malaria Consortium in writing or by cable (deemed to include e-mail only). Questions must be sent by email to tenders@malariaconsortium.org with the following bid reference in the subject:

“Uganda Renovation Works of Selected Health Facilities - MAPD/005/2020 – Question”

The Malaria Consortium Logistics Manager will respond in writing to any request for clarification, provided that such request is received no later than **five (5) days** prior to the deadline for submission of Bids. The Malaria Consortium Logistics Manager shall forward copies of bid clarifications and responses including a description of the inquiry but without identifying its source (by e-mail only) to all Bidders registered while receiving the Bidding documents from MAPD offices;

22.6 At any time prior to the deadline for submission of applications, Malaria Consortium may amend the Bidding documents by issuing addenda. Any addendum issued shall be part of the Bidding documents.

B23). Language of Bid

The medium of communication, correspondence and documents relating to this Bid shall be in writing. The language for communication and required documents for bidding and contracts is English.

B24). Format and Signing of Bids

24.1 The Bidder is required to submit its Bidding documents in ONE sealed envelope or package marked with the Procurement reference number and labeled as: “**Bid for[Renovation Works at Wabusana HC III]......**”. **The envelope or package shall contain one**

(1) set of originals and three (3) copies of each marked as “COPY”. In the event of **(2) discrepancy** between them, the original shall prevail;

25.2 If any or all envelopes or packages are not sealed and marked as required, Malaria Consortium will not assume any responsibility for the misplacement or premature opening of the Bid;

25.3 The original and all copies of the Bid shall be typed or written in indelible ink and must be arranged in the same sequence. All pages of the Bid shall be signed or initialed by the person duly authorized to sign on behalf of the Bidder;

25.4 All monetary information furnished for purposes of this Bid, must be provided in **Uganda Shillings**;

25.5 No alterations or additions shall be valid unless initialed by the person or persons signing the Bid;

25.6 The Bidder shall use the Formats provided in Appendices to furnish some of the required Bid information, where applicable;

25.7 Failure to supply all requested information or comply with the specified formats will disqualify the bidder from consideration.

B26). Bid Prices

26.1 The Contract shall be for the whole Works, as described in section 1 above, based on the priced Bills of Quantities submitted by the Bidder.

26.2 The Bidder shall fill in rates and prices for all items of the Works described in the drawings and specifications and listed in the Bills of Quantities. Items for which no rate or price is entered by the Bidder will not be paid for by the Malaria Consortium when executed and shall be deemed covered by the other rates and prices in the Bills of Quantities

26.3 Where the Bidder's unit rates and prices are deemed unrealistic, the Bidder may be required to provide relevant breakdown and justification prior to application of such rates during execution of the Contract;

26.4 Unless otherwise specified in this Bidding document, all duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the total bid price submitted by the Bidder.

26.5 Price adjustment shall NOT be applicable

B27). Currencies of Bid and Payment

27.1 Bid prices shall be quoted by the Bidder entirely in **Uganda Shillings**

27.2 All payments under the contract shall be made in **Uganda Shillings**

27.3 Interim payments will be **stage payments** valued for fully completed elements

B28). Bid Validity

28.1 Bids shall remain valid for **120 days** after the date of the bid submission deadline prescribed by Malaria Consortium. A bid valid for a shorter period shall be rejected by the Employer, as non-compliant.

28.2 In exceptional circumstances, prior to the expiration of the bid validity period, Malaria Consortium may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing.

B29). Bid Security

29.1 The Bidder shall furnish as part of its bid a Bid security in original form, of **Uganda shillings Ten million (UGX 10,000,000)** for the bid submitted;

- 29.2 The bid security shall be a demand guarantee at the Bidder's option, in any of the following forms:
- (a) an unconditional bank guarantee;
 - (b) an irrevocable letter of credit; or
 - (c) a certified Bank check;

29.3 The bid security shall be submitted either using the Bid Security Format included in Section 3 (Bidding Forms), in the case of a bank guarantee, or in another substantially similar format approved by Malaria Consortium prior to bid submission. In either case, the form must include the complete name of the Bidder. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 12.2

- 29.4 Any bid not accompanied by an enforceable and compliant bid security, shall be rejected by Malaria Consortium as non-responsive.
- 29.5 The bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security pursuant to ITB 25.
- 29.6 The bid security of the successful Bidder shall be released and/or returned immediately once the successful Bidder has signed the Contract and furnished the required performance security.
- 29.7 The bid security may be forfeited:
- (a) if a Bidder withdraws its bid during the period of bid validity or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 24; or
 - (ii) furnish a performance security in accordance with ITB 25.
- 29.8 The bid security of a JVA shall be in the name of the JVA that submits the bid.

B30). Alternative Bids

Bidders shall submit offers that comply with the requirements of the bidding documents, including the technical design as indicated in the drawings and specifications. Alternative bids shall **not** be considered

B31). Deadline for Submission of Bids

- 31.1 Sealed bid submissions clearly marked with the Procurement reference number and labeled as "[**Renovation works at Wabusana HC III**]" must be delivered at or before **10:00am (local time)** on **[30th September 2020]** to the Contracting Party's address at:

**Malaria Consortium (Reception)
Plot 3, Katonga road, Nakasero, Kampala.**

- 31.2 Malaria Consortium may, at its discretion, extend the deadline for the submission of Bids by issuing an official notice through widely circulated national media;
- 31.3 Malaria Consortium shall not receive or consider any Bid or any other form of submission in relation to the Bid that arrives after the deadline for submission of Bids;
- 31.4 Any Bid delivered after the deadline for submission of Bids shall be rejected;
- 31.5 Any Bids once submitted cannot be withdrawn or replaced.

B32). Bid Opening

- 32.1 Malaria Consortium shall conduct the opening of Bids at **10.30am (local time) on [30th September 2020]** and read out the Bidders' particulars and Bid offers in the presence of Bidders' representatives who choose to attend, at the address indicated in section B9. above; and as current situations dictate.
- 32.2 All participants at the opening session shall be required to sign their record of attendance. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record;

32.3 Malaria Consortium shall prepare a record for the Bid opening session.

B33). Confidentiality

33.1 Information relating to the examination and evaluation of the Bid submissions shall not be disclosed to Bidders or any other persons not officially concerned with such process until the Bidding process is concluded;

33.2 No Bidder shall contact the Implementing Partners on any matter relating to its Bid from the time of Bid opening to contract placement with the successful Bidder;

33.3 Any effort by a Bidder to influence the evaluation process of Bid submissions may result in the rejection of its Bid.

B34). Non conformities, Errors and Omissions

34.1 A bid shall be required to conform to all the terms, conditions, and specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
- (b) limits in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the Contract; or
- (c) if rectified would unfairly affect the competitive position of other Bidders in this process.

34.2 Malaria Consortium may waive any non-conformity or omissions in the bid that does not constitute a material deviation.

34.3 Malaria Consortium shall rectify nonmaterial nonconformities or omissions. To this effect, the bid price may be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component.

34.4 Malaria Consortium shall correct arithmetic errors as follows: where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

B35. Pre-Award Assessment

35.1 Pre-Award Assessment will be carried out as part of bid evaluation. Due diligence may be done at any stage of the entire procurement process. **Misrepresentation and/or falsification of any information submitted at any stage shall lead to automatic disqualification.**

35.2 Malaria Consortium will conduct pre-award assessment on Bidders compliant with the Technical evaluation. Pre-award assessment will be done to review:

- (a) the bidder's Governance, Management, and Policy Environment,
- (b) the Bidder's Accounting Procedures, Internal Controls, Budgeting, Reporting, Auditing Functions;
- (c) Procurement arrangements;
- (d) Authenticity of Financial Statements submitted in the Bid;
- (e) the qualification information submitted in the Bid;
- (f) Any emerging issues deemed necessary for pre-award assessment

35.3 An affirmative determination from the pre-award assessment shall be a prerequisite for award of the Contract to the successful Bidder

B36). Contract Negotiations

- 36.1 Malaria Consortium may invite the best evaluated bidder for contract negotiations prior to placement of a contract on emerging matters related to but not limited to the following:
- (a) harmonization of the proposed works programme and work method statement;
 - (b) the scope of the project;
 - (c) emerging issues from financial evaluation;
 - (c) minor amendments to conditions of the contract;
 - (d) payment arrangements under the contract;
 - (e) confirmation of qualification status;
 - (e) clarification of any other details emerging from the bidding process

- 36.2 The notice of best evaluated Bidder and Invitation to contract negotiations shall **NOT** constitute a binding contract

B37). Award of Contract and Contract placement

- 37.1 Prior to the expiration of the period of bid validity and after successful negotiations (if any), Malaria Consortium shall notify the successful Bidder, in writing, that its bid has been accepted by issuing a Letter of Bid Acceptance;
- 37.2 The Letter of Bid Acceptance issued by Malaria Consortium will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price");
- 37.3 Until a formal contract is prepared and executed, the Letter of Bid Acceptance with the successful Bidders' formal consent, shall constitute a binding Contract;
- 37.4 Malaria Consortium will promptly issue the formal contract incorporating all agreements reached between the Employer and the successful Bidder;
- 37.5 Within 5 days of receipt of the Contract, the successful Bidder shall jointly sign the Contract with the Malaria Consortium.

B38). Performance Security

- 38.1 Within **7 days after receipt of the Letter of Acceptance and prior to contract signature**, the successful Bidder shall deliver to Malaria Consortium a Performance Security equivalent to **10% of the Contract Price**;
- 38.2 The Performance Security acceptable to Malaria Consortium shall be an **Unconditional Bank Guarantee** by a reputable bank located in Uganda acceptable to Malaria Consortium;
- 38.3 The Performance Security shall be valid until after issuance of the Defects Liability Period Certificate;
- 38.4 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the contract award. In that event, Malaria Consortium may award the Contract to the next best evaluated Bidder who is determined by Malaria Consortium to be qualified to perform the Contract satisfactorily.

B39). Advance Payment and Security

- 39.1 Malaria Consortium may provide an Advance Payment **not exceeding 20%** of the Contract Price and will be paid in Uganda shillings;

- 39.2 Advance Payment will be paid to the Contractor within 30 days after receipt of advance payment Security acceptable to Malaria Consortium in the form of an **Unconditional Bank Guarantee** by a reputable bank located in Uganda and recognized by Malaria Consortium;
- 39.3 Payment of Advance Payment shall **not** be construed as a condition to delay the commencement of contract execution in any case;
- 39.4 Use of Advance Payment shall be subject to discretionary audit by Malaria Consortium.

B40). Adjudicator

- 40.1 The Adjudicator proposed by Malaria Consortium is the:
President, Uganda Institution of Professional Engineers (UIPE) at an hourly fee of **US \$ 50** plus approved reimbursable expenses.
- 40.2 If the Bidder disagrees with this proposal, the Bidder should so state in the Bid.
- 40.3 If, in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the conditions of contract at the request of either party.

C Technical Requirements & Specifications

Malaria Consortium requires Construction Company to renovate the Outpatient Department (OPD), Maternity wing (ANC) Sanitation facilities (Pit latrine) of Wabusana Health facility in Luwero District Uganda as detailed below. Bidder must visit the site location to ensure that costs are accurate. As per the payment terms this will be a fixed price contract with no additional funds available for contractors going over budget. Bidders must provide fully costed 'Fixed Price' Bills of Quantities (BOQs) based on the drawings provided in Annexes 1 to 3. For the BOQ, the bidder must include all labour, materials, transport and other costs.

C16) The vendor will be responsible for insurance against relevant risks during construction.

C17) The vendor will be responsible for:

-) Providing all building materials and man power for the completion of the project.
-) Maintaining good relationship with the all stakeholders including local and district leadership during the construction process.
-) Updating Malaria Consortium (MAPD designated staff) who will be supervising the progress of the Work.
-) Ensuring that the quality of the work done is satisfactory and to the best standard as required.
-) Ensuring that the work is completed within the agreed time frame in the contract.

C18) Malaria Consortium (MAPD) will be responsible for:

-) Inspecting and supervision of the renovation works at the Health facility.
-) Ensuring the contractor has the support of the health facility and district authority to effectively complete the project.
-) Verifying that the quality of the work done is satisfactory and to the best standard as required.
-) Verifying that the work is completed within the agreed time frame in the contract.
-) Update the donor on the progress of the project.

D Payment Terms

- D19) The contract with the winning bidder will be a fixed price contract, with the contractor liable for any additional costs which will not be covered by Malaria Consortium (MAPD). Any non completion of works by the agreed deadlines will incur penalty clauses, with a performance bond/bid security to support Malaria Consortium (MAPD) should any works not be completed.
- D20) A payment schedule will be agreed for each works, with limited initial payments to enable the contractor to

start work, stage payments for the work based on agreed milestones, payment on completion and a final payment after a defect liability period of 3 months assuming no issues with the works will be agreed in the final contract.

D21) Malaria Consortium (MAPD) will make payment 30 days after receipt of tax invoice/ demand note, plus supporting documentation which will include stage sign off from a qualified engineer selected by Malaria Consortium, from the contractor and upon successful achievement of mile stones agreed.

D22) All payments shall be made in (Uganda Shillings) by bank transfer into a designated company bank account.

D23) The evaluation criteria as outlined in section E and in the instruction to bidders in annexes 1 to 3 will be used to evaluate bids.

D24) the final contract will include penalty clauses for delayed completion against the agreed delivery schedule/ milestones unless the cause of the delay was unforeseen a per acts of God/ force Majeure (earthquakes, floods, or other natural disasters).

E RFP Evaluation Criteria

For the proposal to be considered technically compliant, the proposer must achieve a minimum score of 50% and above. Proposals, which do not meet the minimum score will be given no further consideration. In addition, clarity and completeness of proposals will be considered during the evaluation.

- 1.1 Preliminary examination on a pass/fail basis shall be done to determine the eligibility of the bidders and assess their administrative compliance to the Bid requirements. Non eligible and non-compliant applications shall be rejected from further evaluation;
- 1.2 Bidders shall submit authentic documentary evidence for their eligibility and administrative compliance in the following order:

S/N	Criteria
1	Fully Signed Application Submission Sheet
2	Registered powers of attorney of the signatory to the application with a sample signature of the signatory to application
3	Certified copy of Certificate of Registration / Incorporation
4	Tax Clearance Certificate addressed to Malaria Consortium Uganda
5	Copy of Valid Trading Licence.
6	Copy of Tax Identification Number (TIN) Certificate
9	Declaration on Nationality of the bidders' Directors
10	Declaration on 'No conflict of Interest'
11	Written Clearance by PPDA that the Bidder is not under 'Suspension'
12	Information regarding any litigation, current or during the last five years, in which the Applicant is involved, the parties concerned and disputed amounts
13	Evidence that the Bidder is operating in Uganda
14	Bid Security

E2. Detailed Technical Evaluation

- 2.1 Detailed technical evaluation on a 70% pass mark basis shall be done on eligible and complaint bids only, to determine the capacity, experience and resources of the bidders to execute the subsequent contracts. Bids that score below 50 % (Non-compliant bids shall be rejected).
- 2.2 Bidders shall submit authentic documentary evidence for their technical compliance in the following order:

S/N	Criteria																																				
(1)	Audited Books of Accounts for the last three (3) years;																																				
(2)	The minimum required annual turnover in any of the last three years shall be at least UGX 1.0 billion;																																				
	Minimum required volume of construction work concluded over the last three years shall be at least UGX 1.0 billion;																																				
(4)	Successful experience as prime contractor in the execution of health infrastructure projects completed within the last five years. The Bidder must have done at least three (3) projects totaling not less than UGX 1.0 billion																																				
(5)	Specific work experience in Building works involving re-modelling and renovations of existing buildings is required																																				
(6)	Minimum amount of Liquid Assets or credit lines net of other contractual commitments and exclusive of advance payments for execution of the contract of UGX 300 Million;																																				
(7)	Authority to seek references from the Bidder's Bankers;																																				
(8)	Minimum number of Key Technical Personnel with relevant training and experience as indicated below (including signed CVs)																																				
	<table border="1"> <thead> <tr> <th>Personnel (per Lot)</th> <th>Min Qualification</th> <th>Total years of Experience Required</th> <th>Experience in proposed Position Required</th> </tr> </thead> <tbody> <tr> <td>Contract Manager (1)</td> <td>BSc Civil Eng</td> <td>15</td> <td>10</td> </tr> <tr> <td>Site Engineer (1)</td> <td>BSc Civil Eng</td> <td>15</td> <td>10</td> </tr> <tr> <td>Site/ Civil Works Foreman (One per Site)</td> <td>HD Civil Eng</td> <td>10</td> <td>7</td> </tr> <tr> <td>Carpentry & Joinery Foreman (one per site)</td> <td>HD Civil Eng</td> <td>10</td> <td>7</td> </tr> <tr> <td>Steel Works Foreman (one per site)</td> <td>HD Mech Eng</td> <td>10</td> <td>7</td> </tr> <tr> <td>Mechanical/ Plumbing Foreman (one per Lot)</td> <td>HD Mech Eng</td> <td>10</td> <td>7</td> </tr> <tr> <td>Electrical Foreman (one per Lot)</td> <td>HD Elect Eng</td> <td>10</td> <td>7</td> </tr> <tr> <td>Health and Safety Officer at site (One per Lot)</td> <td>Dipl Public Health or equivalent</td> <td>10</td> <td>7</td> </tr> </tbody> </table>	Personnel (per Lot)	Min Qualification	Total years of Experience Required	Experience in proposed Position Required	Contract Manager (1)	BSc Civil Eng	15	10	Site Engineer (1)	BSc Civil Eng	15	10	Site/ Civil Works Foreman (One per Site)	HD Civil Eng	10	7	Carpentry & Joinery Foreman (one per site)	HD Civil Eng	10	7	Steel Works Foreman (one per site)	HD Mech Eng	10	7	Mechanical/ Plumbing Foreman (one per Lot)	HD Mech Eng	10	7	Electrical Foreman (one per Lot)	HD Elect Eng	10	7	Health and Safety Officer at site (One per Lot)	Dipl Public Health or equivalent	10	7
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Electrical Foreman (one per Lot)	HD Elect Eng	10	7																																		
Health and Safety Officer at site (One per Lot)	Dipl Public Health or equivalent	10	7																																		

(9) Possession or Leased (with evidence) of the minimum types and quantities of **Equipment and Plant** for execution of the work:

	Criteria	Qty Required
1	Concrete Mixer – 1 Cu. M	1 no.
2	Carpentry & Joinery Set	1 no.
3	Metal fabrication Set	1 no.
4	Diesel Generator 10 KVA	1 no.
5	Dumpy level	1 no.
6	Mobile Welding Machine 300 AMP	1 no.
7	Porker Vibrator	2 no.
8	Vibratory Pedestrian Roller 1 – 2 ton	1 no.
9	Trucks (Min. 7 tons)	1 no.
10	Pick-up truck 1 ton	1 no.

(10) The Bidder shall submit with its bid the following additional documents:

- (a) A comprehensive methodology statement on Health, Safety and Environment, based on the company policy in place, on how it intends to go about the works while preserving these aspects. The company policy should also be submitted;
- (b) Specific environmental plans should be elaborated /detailed for waste disposal;
- (c) The Contractor shall at their own cost, comply with all requirements stipulated in the Environmental Management and Mitigation Plan (EMMP) indicated under the Bidding forms.

E3. Financial Comparison of Bids

3.1 To financially compare bids, Malaria Consortium shall:

- (a) determine the bid price, taking into account the following costs:
 - (i) the total price given in the Bills of Quantities
 - (ii) Value Added Tax;
 - (iii) Day Works shall be considered as Unit rates only subject to call-off orders issued by the Project Manager, during execution of contract;
- (b) correct any arithmetic errors in accordance with ITB 18;
- (c) apply any unconditional discounts offered;
- (d) make adjustments for any acceptable variations, deviations, nonconformities and omissions in accordance with ITB 18;
- (e) Margin of preference shall NOT be applicable;
- (f) determine the total evaluated price of each bid.

3.2 Malaria Consortium shall consider and take discretionary action on prices that appear to:

- (a) be unbalanced;
- (b) show a misunderstanding of the requirements; or
- (c) be intended to front load earnings.

3.3 The lowest Bid price shall **NOT** necessarily imply the best evaluated bid. Malaria Consortium shall not be bound by any or the lowest bid;

3.4 Malaria Consortium shall compare all bids to determine the best evaluated bidder on account of resulting bid price and other related factors.

F Declaration by the Bidder:

I/we, the Bidder, hereby confirm compliance with the following (which are attached to this RFP):

-) Malaria Consortium Terms and Conditions of Purchase
-) Malaria Consortium's Anti-Bribery Policy
-) Malaria Consortium's Anti-Fraud and Anti-Corruption policy
-) Malaria Consortium's Safeguarding policy

I/we also confirm that Malaria Consortium may in its consideration of our offer, and subsequently, rely on the information provided in this document.

I (Name) _____ (Title) _____ am authorized to represent the above-detailed company and to enter into business commitments on its behalf.

Company

Date

Bidding Forms

FORMAT 1: BID SUBMISSION SHEET

[This Bid Submission Sheet should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign documents that are binding on the Bidder]

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

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of the Malaria Consortium]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issue date of each Addenda];*
- (b) We offer to execute in conformity with the Bidding Document and in accordance with the specified completion schedule and the terms and conditions of the Bidding Document, the following Works *[insert a brief description of the Works];*
- (c) The total price of our Bid, excluding any discounts offered in item (e) below, is: *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies]: ...*
- (d) The advance payment required is:...
- (e) The discounts offered and the methodologies for their application are:
Unconditional discounts. If our bid is accepted, the following discounts shall apply. *[Specify in detail each discount offered (eg amount/percentage) and the specific item of the Statement of Requirements to which it applies.]*
Methodology of application of the unconditional discounts. The unconditional discounts shall be applied using the following method: *[Specify precisely the method that shall be used to apply the discounts];*
- (f) Our bid shall be valid for a period of *[specify the number of calendar days]* calendar days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document in the amount of *[insert amount and currency in words and figures of the Performance Security]* for the due performance of the Contract;
- (h) We, including any subcontractors or providers for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in Uganda;
- (i) We undertake to abide by the Code of Ethical Conduct for Bidders and Providers during the procurement process and the execution of any resulting contract;
- (j) We accept the appointment of *[name proposed in Bid Data Sheet]* as the Adjudicator.
[or]
We do not accept the appointment of *[name proposed in Bidding Data]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.
- (k) We are not participating, as Bidders, in more than one bid in this bidding process, other than alternative bids in accordance with the Bidding Document;
- (l) We understand that this bid, together with your written acceptance thereof included in your Letter of Bid Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (m) We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Duly authorised to sign the bid for and on behalf of: *[insert complete name of Bidder/Joint Venture]*

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

[This Bid Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign the Bid Security. It should be included by the Bidder in its bid as indicated in the ITB]

FORMAT 2: BID SECURITY

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

Procurement Reference No.: *[insert Procurement Reference number]*

To: *[insert complete name of Employer]*

Whereas, *[insert complete name of Bidder]* (hereinafter called "the Bidder") has submitted its bid dated *[insert date (as day, month and year) of bid submission]* for Procurement Reference number *[insert Procurement Reference number]* for the construction of *[insert brief description of the Works]* (hereinafter called "the bid").

KNOW ALL PEOPLE by these presents that We *[insert complete name of institution issuing the Bid Security]* of *[insert city of domicile and country of nationality]* having our registered office at *[insert full address of the issuing institution]* (hereinafter called "the Guarantor") are bound unto *[insert complete name of Employer]* (hereinafter called "the Employer") in the sum of *[specify in words and figures the amount and currency of the Bid Security]* for which payment well and truly to be made to the said Employer, the Guarantor binds itself, its successors or assignees by these presents.

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

THE CONDITIONS of this obligation are:

- (1) If the Bidder withdraws its bid during the period of bid validity specified in the bidding document; or
- (2) If the Bidder having been notified of the acceptance of its bid by the Employer during the period of bid validity fails or refuses to:
 - (a) sign the Contract in accordance with the ITB Clause 24, if required; or
 - (b) furnish the Performance Security, in accordance with the ITB Clause 25; or
 - (c) accept the correction of its bid price pursuant to ITB Clauses 18 and 21,

we undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer's having to substantiate its demand, provided that in its demand the Employer states that the amount claimed by it is due to it, owing to the occurrence of one or more of the above conditions, specifying the occurred conditions.

This security shall remain in force up to and including twenty-eight (28) days after the period of bid validity, and any demand in respect thereof should be received by the Guarantor no later than the above date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

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

Name: *[insert complete name of person signing the Bid Security]*

In the capacity of *[insert legal capacity of person signing the Bid Security]*

Duly authorised to sign the Bid Security for and on behalf of: *[insert complete name of Financial Institution]*

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

3.3. Qualification Information

FORMAT 3: BIDDER'S INFORMATION SHEET

STRUCTURE AND ORGANIZATION	
1	Name of Company: <i>[insert full legal name]</i>
	Physical address: <i>[insert street/ number/ town or city/ country]</i>
	Postal address:
	Telephone number:
	Tele/fax number:
	Email:
	Location of Workshop:
2	Description of the Company's activities:
3	Number of years of experience in the provision of the works under reference
4	<p>In case of a Joint Venture, the following documentation shall be required for each member of the joint venture:</p> <ol style="list-style-type: none"> a. Power of Attorney of the signatory(ies) of the bid authorizing signature of the bid on behalf of the joint venture; b. a certified copy of the Joint Venture Agreement, which is legally binding on all partners, showing that all partners shall be jointly and severally liable and one of the partners will be nominated as being in charge, authorised to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture. c. a copy of the Bidder's Trading license or equivalent for 2020. d. a copy of the Bidder's Certificate of Registration or equivalent. e. The Bidder's income tax clearance certificate or equivalent for 2020. f. a copy of the Bidders tax Registration Certificate (Tax Identification Number) or equivalent. <p>The Applicant's authorised representative for information is:</p> <p>Name: <i>[insert full legal name]</i></p> <p>Address: <i>[insert street/ number/ town or city/ country]</i></p> <p>Telephone/Fax numbers: <i>[insert telephone/fax numbers, including country and city codes]</i></p> <p>E-mail address: <i>[indicate e-mail address]</i></p>
5	Describe your Company's access from other sources (name the source/companies) to the works (attach only if applicable to the services of interest)

6	Please indicate here or attach an organization chart showing the company structure including Technical and Managerial Personnel.
7	What are the specific types of Civil and building works that the Company has been able to undertake

FORMAT 4: LEGAL STATUS	
1	Enclose a copy of the Memorandum and Articles of Association or its equivalent. A separate list of Directors/Partners/Proprietors should be attached. A joint venture agreement or intent to form a Joint Venture should be attached where applicable.
2	Enclose a copy of the Certificate of registration or equivalent.
3	Enclose a copy of the Power of Attorney to the signatory of the short listing document registered by the Registrar of Companies or written authorization to submit the application.
4	<ul style="list-style-type: none"> - Enclose an Income Tax Clearance Certificate addressed to the Malaria Consortium Uganda, for this particular purpose. Malaria Consortium Uganda shall only accept original income tax clearance certificates. - Enclose an Annual Tax Clearance certificate for the year 2019. - Attach a copy of Tax registration certificate (Tax Identification Number (TIN)) or its equivalent.
5	Please enclose a copy of a Trading License or equivalent for the year 2020 certified by an issuing authority.
6	Please enclose a copy of your firm's insurance policy coverage (applicable to motor vehicle maintenance and repair of office equipment)
7	Please enclose a copy of your firm's ISO or other quality assurance certificates, if any.
8	Please enclose information on your litigation history in the past five years in terms of no. of litigation cases decided against your firm

FORMAT 5: FINANCIAL DECLARATION

1. Share capital
) Authorized share capital:
2. Annual value of business under taken in the past **three** years

Year					
Turn over					

3. **Approximate value** of current work related to this type of required works.
4. Please attach **certified copies of Audited books of Accounts for the previous three years duly authorized by certified public accountants** (profit/loss, assets/liabilities) and any financial data, which you consider to be useful in the qualification.

Please list all the attachments below:

*Summarize in table below the actual assets and liabilities in UgShs. Million for the previous **three** years*

Financial Information	Actual previous three years		
	2016/17	2017/18	2018/19
1. Total Assets			
2. Current Assets			
3. Total Liabilities			
4. Current Liabilities			
5. Profits before taxes			
6. Profits After taxes			

5. Name and address of Bankers from which references can be obtained and authority to seek references

Name of Bank	
Address of Banker	
Telephone	
Fax	
E-mail Address	
Contact Name and Title	
Type of Account	

FORMAT 6: RESOURCES: PERSONNEL

1. Number of staff

-) Management staff:
-) Technical staff:
-) Support staff:

2. Please list the present key personnel and management staff.

Name	Key Qualification(s)	Years of general experience	Years of relevant experience to this project

- 3. Please insert signed CVs for the key personnel**
(Should be a Brief format to a maximum of 2 pages per CV indicating bio data, education/training, relevant experience to this project and contact references for each experience cited)

FORMAT 7: RESOURCES: BIDDERS' EQUIPMENT AND FACILITIES

On the basis of the information provided in the Bidding documents, please indicate Number of pieces of equipment, when acquired and other facilities considered by your firm to be necessary for undertaking the contract and whether this is already in the company's ownership or will be purchased.

The following Plant and Equipment are available at the Bidder's workshop in Working Condition and will be used for the project as required:

Type	Reg. No	Capacity	Year of Manufacture

Notes: For Equipment owned attach certified copies of registration cards.

FORMAT 8: EXPERIENCE: RELEVANT PROJECTS COMPLETED

Please fill in information about the relevant contracts completed over the past five years (2014 -2019).

Employer's Name and Contact person	Description of Contracts	Location of the project	Initial Contract Price	Final Contract Price	Initial Contract Duration	Final Contract Duration	Date of Completion	Name and Contact of the Project Manager for the Employer

The Bidder MUST attach:

- (i) evidence of performance of the above contracts in the form of Completion Certificates:
- (ii) at least three References of good performance record from other Clients

FORMAT 9: ENVIRONMENTAL MANAGEMENT AND MITIGATION PLAN (EMMP)

The Bidder is required to comply with requirements in indicated this form. Sign off the form and submit it with the Bid:

Activity/ IEE Condition	Potential Adverse Effect (Identified environmental aspect)	Mitigation	Person responsible for implementation of mitigation	Monitoring indicator (verification of implementation)	Monitoring Log
1. Site Camps and Workers	<ul style="list-style-type: none"> <input type="checkbox"/> Imported labour requirements <input type="checkbox"/> Increase in HIV/AIDS prevalence <input type="checkbox"/> Gender discrimination <input type="checkbox"/> Potential conflicts 	<ul style="list-style-type: none"> <input type="checkbox"/> Recruit locals for some works <input type="checkbox"/> Implement HIV/AIDS sensitization <input type="checkbox"/> Maintain participation of women in project activities <input type="checkbox"/> Regular payments to workers without exploitation 	<ul style="list-style-type: none"> Sub-contractor Managers Site Foremen HSE Officers 	<ul style="list-style-type: none"> <input type="checkbox"/> Maintain at least 30% of workers as locals <input type="checkbox"/> Number of HIV/AIDS sensitization activities <input type="checkbox"/> Participation of women in project activities: 1/3 of workers shall be women <input type="checkbox"/> Absence of worker conflicts at site 	Monthly
2. Site Clearance and Surveys	Cutting of trees	<ul style="list-style-type: none"> <input type="checkbox"/> Planting trees to replace cut trees <input type="checkbox"/> For every site, plant 10 trees 	<ul style="list-style-type: none"> Site Foremen Clerks of Works 	Number of Trees planted	At commencement of site works
3. Demolitions	<ul style="list-style-type: none"> <input type="checkbox"/> Noise and dust pollution <input type="checkbox"/> Debris accumulation <input type="checkbox"/> Personal injury 	<ul style="list-style-type: none"> <input type="checkbox"/> Provide appropriate PPE: for both workers and visitors <input type="checkbox"/> Non-disruptive Timing of activity <input type="checkbox"/> Dispose debris off site or designated covered areas <input type="checkbox"/> Identify designated waste disposal areas. <input type="checkbox"/> Obtain disposal permit from District 	<ul style="list-style-type: none"> Site Foremen Clerks of Works HSE Officers 	<ul style="list-style-type: none"> <input type="checkbox"/> Clean site <input type="checkbox"/> No stock pile of debris <input type="checkbox"/> No injury reports 	Continuous till end of activity

Activity/ IEE Condition	Potential Adverse Effect (Identified environmental aspect)	Mitigation	Person responsible for implementation of mitigation	Monitoring indicator (verification of implementation)	Monitoring Log
			Environment Officers (DEOs)		
4. Earthworks	<ul style="list-style-type: none">) Soil erosion) Water ingress 	<ul style="list-style-type: none">) Ensure appropriate measures are in place to reduce soil erosion) Restoration of disturbed surfaces) Effective storm water drainage) Regular dewatering of excavated areas 	Site Foremen Clerks of Works	No water ponding at sites	Continuous
5.	<ul style="list-style-type: none">) Creation of stagnant water provide habitat for disease carrying vectors 	General drainage of site: <ul style="list-style-type: none">) Ensure appropriate mitigation measures are in place to prevent stagnant water; rainwater harvesting and/or proper drainage channels etc. 	Site Foremen Clerks of Works HSE Officers		
6. Concrete and Masonry works	Sources of materials depleting	<ul style="list-style-type: none">) Contractors will source finished products) National or Local authorities to enforce environmental requirements) Raw materials e.g sand, bricks, gravel etc.; shall be purchased from registered dealers 	Environmental Officers Project Management professionals	Suppliers Credentials	Continuous

Activity/ IEE Condition		Potential Adverse Effect (Identified environmental aspect)	Mitigation	Person responsible for implementation of mitigation	Monitoring indicator (verification of implementation)	Monitoring Log
7.	Steel and Timber works	Personal injury from sharp objects	<input checked="" type="checkbox"/> Provide PPE <input checked="" type="checkbox"/> Provide First aid facilities at site	Site Foremen Clerks of Works HSE Officers	No injury reports	Continuous
8.	Water and Food quality	Contamination	<input checked="" type="checkbox"/> Visual inspection for quality and preservation <input checked="" type="checkbox"/> Regular disposal of waste	Site Foremen Clerks of Works HSE Officers	<input checked="" type="checkbox"/> Adequate and safe water available at site <input checked="" type="checkbox"/> Clean kitchen and food handling	Weekly
9.	Transportation and Storage of materials	<input checked="" type="checkbox"/> Spillage of oils and other chemicals <input checked="" type="checkbox"/> Fire incidents <input checked="" type="checkbox"/> Dust	<input checked="" type="checkbox"/> Sealed packaging <input checked="" type="checkbox"/> Fire-fighting equipment at sites <input checked="" type="checkbox"/> Safety signage <input checked="" type="checkbox"/> Establish speed limit controls	Sub-contractor Managers Store keepers HSE Officers	<input checked="" type="checkbox"/> No spillage of Oils <input checked="" type="checkbox"/> No fire reports <input checked="" type="checkbox"/> Safety signage displayed for caution <input checked="" type="checkbox"/> Log of fire-fighting equipment at site <input checked="" type="checkbox"/> Number of access routes to site	Weekly
10.	Waste Disposal	<input checked="" type="checkbox"/> Pollution <input checked="" type="checkbox"/> Inadequate sanitation <input checked="" type="checkbox"/> Presence of hazardous material	<input checked="" type="checkbox"/> Segregated collection <input checked="" type="checkbox"/> Regular disposal to approved destinations <input checked="" type="checkbox"/> Contractors to establish sanitation facilities for workers	Site Foremen Clerks of Works HSE Officers	<input checked="" type="checkbox"/> Clean site <input checked="" type="checkbox"/> No stock pile of waste <input checked="" type="checkbox"/> Adequate sanitation facilities for site workers	Weekly
11.		<input checked="" type="checkbox"/> Accidents on sites for both workers and non-workers	<input checked="" type="checkbox"/> Hoarding and provision of safety signage at site	Site Foremen Clerks of Works HSE Officers	<input checked="" type="checkbox"/> Site hoarding or site access control provided <input checked="" type="checkbox"/> Records of persons at site maintained	<input checked="" type="checkbox"/> Hoarding at commencement; <input checked="" type="checkbox"/> Site records daily
12.		<input checked="" type="checkbox"/> Accidents on site	<input checked="" type="checkbox"/> Provide first aid kits and fire-fighting equipment	Site Foremen Clerks of Works HSE Officers	<input checked="" type="checkbox"/> First aid kits stocked	Continuous

Activity/ IEE Condition	Potential Adverse Effect (Identified environmental aspect)	Mitigation	Person responsible for implementation of mitigation	Monitoring indicator (verification of implementation)	Monitoring Log
		<ul style="list-style-type: none">) Make arrangements with health facility to attend to emergencies that could arise 		<ul style="list-style-type: none">) Fire-fighting equipment provided) Emergency health available at site 	
13.	<ul style="list-style-type: none">) Spread of HIV/AIDS 	<ul style="list-style-type: none">) Ensure regular sensitization of workers on HIV/AIDS) Identify decent accommodation areas for workers 	Site Foremen Clerks of Works HSE Officers	<ul style="list-style-type: none">) Number of sensitization events) Decent and clean accommodation provided 	Weekly
14.	Other Recommendations for renovated Health facilities: <ul style="list-style-type: none">) Interrupted operations of the facility.) Shortage of water in health facility under renovation 	<ul style="list-style-type: none">) Ensure back up sources of water and power) If water from the health facility is to be used, get formal agreements from authorities and contribute to the bills.) Alternatively outsource water for works 	Site Foremen Clerks of Works HSE Officers	<ul style="list-style-type: none">) Functional alternative sources of power) Prompt settlement of utility bills) Adequate water reservoirs for on-going Works 	Monthly

Certification by the Bidder:

I, the undersigned, confirm that:

1. All mitigation and monitoring measures specified in this EMMP will be implemented in their entirety, and that staff charged with this implementation will have the authority, capacity and knowledge for successful implementation;
2. The Contractor shall report on implementation of this EMMP to the Project Manager regularly.

(Signature) _____

(Date) _____

(Print name) _____

(Title) _____

FORMAT 10: COMPLIANCE WITH MALARIA CONSORTIUM POLICIES

The Bidder is required to comply with requirements in indicated in the following policies attached. Sign off your compliance and submit it with the Bid as follows:

We, the Bidder, _____ (name of bidder) hereby confirm compliance with:

- Malaria Consortium's Anti-Bribery Policy
- Malaria Consortium's Anti-Fraud and Anti-Corruption policy
- Malaria Consortium's Child Protection policy

As laid down in the Solicitation document.

(Signature) _____

(Date) _____

(Print name) _____

(Title) _____

- Annexure 1 Technical Specifications
- Annexure 2 Drawings
- Annexure 3: Bills of Quantities

Malaria Consortium Terms and Conditions of Purchase

1 Definitions and Interpretation

These terms and conditions ("**Conditions**") form part of the contract between the supplier ("**Supplier**") and Malaria Consortium (the "**Customer**"), in relation to the purchase order ("**Order**") (the Order and the Conditions are together referred to as the "**Contract**"). Terms not otherwise defined herein shall have the meaning given to them in the applicable Order.

2 Quality and Defects

- 2.1 The Goods and the Services shall, as appropriate:
- a) correspond with their description in the Order and any applicable specification;
 - b) comply with all applicable statutory and regulatory requirements;
 - c) be of the highest quality and fit for each purpose held out by the Supplier or made known to the Supplier by the Customer;
 - d) be free from defects in design, material, workmanship and installation; and
 - e) be performed with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade.
- 2.2 The Customer (including its representatives or agents) reserves the right at any time without the provision of prior notice to audit the Supplier's records, inspect work being undertaken in relation to the supply of the Goods and Services and, in the case of Goods, to test them.

3 Ethical Standards

- 3.1 The Supplier shall observe the highest ethical standards during the performance of its obligations under this Contract including international labour standards promoted by the International Labor Organization including in the areas of child labour and forced labour.
- 3.2 The Supplier, its suppliers and sub-contractors shall comply with all environmental, public health & safety, and product safety statutory and regulatory requirements and standards, shall not in any way be involved in (a) the manufacture or sale of arms or have any business relations with armed groups or governments for any war related purpose; or (b) terrorism and shall check its staff, suppliers and sub-contractors against the following sanctions lists: UK Treasury List, EC List, OFAC List and US Treasury List and comply with all regulatory requirements relating thereto.
- 3.3 The Supplier shall comply with the following Customer Policies, which are available upon request: Safeguarding and Anti-Bribery. **[Note: query whether these should be defined]**

4 Delivery / Performance

- 4.1 The Goods shall be delivered to, and the Services shall be performed at the address and on the date or within the period stated in the Order, and in either case during the Customer's usual business hours, except where otherwise agreed in the Order. Time shall be of the essence in respect of this Condition 4.1.
- 4.2 Where the date of delivery of the Goods or of performance of Services is to be specified after issue of the Order, the Supplier shall give the Customer reasonable written notice of the specified date.
- 4.3 Delivery of the goods shall take place and title in the Goods will pass on the completion of the physical transfer of the goods from the Supplier or its agents to the Customer or its agents at the address specified in the Order.
- 4.4 Risk of damage to or loss of the Goods shall pass to the Customer in accordance with the relevant provisions of Incoterms rules as in force at the date the Contract is made or, where Incoterms do not apply, risk in the Goods shall pass to the Customer on completion of delivery. **[Note: need to specify an Incoterm in the Purchaser Order if this is to work.]**
- 4.5 The Customer shall not be deemed to have accepted any Goods or Services and shall retain its right to reject such Goods and Services until the Customer has had reasonable time to inspect them following delivery and/or performance by the Supplier.

- 4.6 The Customer shall be entitled to reject any Goods delivered or Services supplied which are not in accordance with the Contract. If any Goods or Services are so rejected, at the Customer's option, the Supplier shall forthwith re-supply substitute Goods or Services which conform with the Contract. Alternatively, the Customer may cancel the Contract and return any rejected Goods to the Supplier at the Supplier's risk and expense and the Supplier shall repay to the Customer any amount paid in relation to such Goods or Services.

5 Indemnity

The Supplier shall indemnify the Customer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Customer as a result of or in connection with any act or omission of the Supplier or its employees, agents or sub-contractors in performing its obligations under this Contract, and any claims made against the Customer by third parties (including claims for death, personal injury or damage to property) arising out of, or in connection with, the supply of the Goods or Services or a breach of Clause 2.

6 Price and Payment

Payment in arrears will be made as set out in the Order and the Customer shall be entitled to offset against the price set out in the Order all sums owed to the Customer by the Supplier.

7 Termination

- 7.1 The Customer may terminate the Contract without liability to the Supplier in whole or in part at any time and for any reason whatsoever by giving the Supplier at least one month's written notice.
- 7.2 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier and the Supplier shall pay to the Customer any losses (including all associated costs, liabilities and expenses, including legal costs) incurred by the Customer as a consequence of such termination and/or breach from the Supplier at any time if the Supplier:
- a) becomes insolvent, goes into liquidation, makes any voluntary arrangement with its creditors, or becomes subject to an administration order or other similar bankruptcy process;
 - b) is in material breach of its obligations under the Contract; or
 - c) is in breach of any of its obligations and fails to remedy such breach within 14 days of written notice to remedy from the Customer.
- 7.3 In the event of termination, all existing purchase orders must be completed.

8 Supplier's Warranties

- 8.1 The Supplier warrants to the Customer that:
- a) it has all necessary internal authorizations and all authorisations from all relevant third parties to enable it to supply the Goods and the Services without infringing any applicable law, regulation, code or practice or any third party's rights;
 - b) it will not and will ensure that none of its employees will accept any commission, gift, inducement or other financial benefit from any supplier or potential supplier of the Customer; and
 - c) the Services will be performed by appropriately qualified and trained personnel, with the best care, skill and diligence and to such high standard of quality as it is reasonable for the Customer to expect in all the circumstances.

9 Force majeure

- 9.1 Neither the Supplier nor the Customer shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by an event that is beyond that party's reasonable control and was not reasonably foreseeable at the date of the Order (a "**Force Majeure Event**") provided that the Supplier shall use best endeavours to cure such Force Majeure Event and resume performance under the Contract.
- 9.2 If any Force Majeure Event prevents the Supplier from carrying out its obligations under the Contract for a continuous period of more than 14 days, the Customer may terminate the Contract immediately by giving written notice to the Supplier.

10 General

- 10.1 The Supplier shall not use the Customer's name, branding or logo other than in accordance with the Customer's written instructions or authorisation.

- 10.2 The Supplier may not assign, transfer, charge, subcontract, novate or deal in any other manner with any or all of its rights or obligations under the Contract without the Customer's prior written consent.
- 10.3 Any notice under or in connection with the Contract shall be given in writing to the address specified in the Order or to such other address as shall be notified in writing from time to time. For the purposes of this Condition, "writing" shall include e-mails and faxes.
- 10.4 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 10.5 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by both parties.
- 10.6 The Contract shall be governed by and construed in accordance with English law. The parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation.
- 10.7 A person who is not a party to the Contract shall not have any rights under or in connection with it.

Anti-Bribery Policy

1. Purpose and context

Malaria Consortium's policy is to conduct its work in an honest and ethical manner. Malaria Consortium, wherever it operates, takes a zero-tolerance approach to bribery and is committed to ensuring that its employees act professionally, fairly and with integrity in all dealings wherever Malaria Consortium operates. This is to ensure that the organization benefits from a valued reputation, and donor and partner and beneficiary confidence.

2. Principles

Malaria Consortium is committed to implementing and enforcing effective systems to counter bribery.

3. Scope

This policy applies to all individuals in the organization, including trustees, senior managers, employees (whether permanent, fixed term or temporary), volunteers and interns, consultants, partners and any other person or organisation providing services to Malaria Consortium whether paid or unpaid.

All employees will be trained on this policy on joining the organization as part of their finance induction. They will be asked to sign that have read, understood and agree to abide by its content. All other persons associated with the organisation will be informed of this policy through their contractual arrangements. For existing employees and associated persons the policy is to be communicated via the Country Director, the Regional Programmes Director in the regions and the Financial Controller in each country.

4. Definition and terms

What is a bribe?

A bribe is a financial or other advantage offered or given:

-) To anyone to persuade them to or reward them for performing their duties improperly or;
-) To any public official with the intention of influencing the official in performance of their duties. This includes any form of gift or payment to an official in an attempt to speed up or complete a process quicker than usual. The size of the gift is irrelevant.

5. Implementation

Any individual suspected of offering, promising or giving a bribe, requesting, agreeing to receive or accepting a bribe or bribing a public official will be investigated under the organisation's disciplinary policy and if found guilty will be dismissed for gross misconduct. For any contractor found to offer, promise or give a bribe or requested or agreed to receive or accept a bribe or bribing a foreign public official, will have their contract terminated immediately, all business dealings will cease and financial compensation will be sought and it will be reported to the authorities as required by the Act.

If any individual is confronted with a request to make a bribe, individuals are to present a copy or explain this Anti-Bribery Policy and must not agree to the bribe in any circumstances. All vehicles should carry a copy of the policy for this purpose.

Gifts and hospitality

This policy does not prohibit the giving and receiving of promotional gifts of low value and normal and appropriate hospitality. Low value gifts are defined as those below GBP 5.00 or currency equivalent. Gifts and hospitality may amount to bribery; therefore these must not be offered or given with the intention of persuading anyone to act improperly or to influence a public official in the performance of his duties. Any gifts or hospitality offered must be reported to the Country Finance Manager before acceptance and instruction given to the individual on whether or not the gift is to be accepted.

Any offer or promise must be documented, whether it is approved or not by the Country Finance Manager on the register of interest and gifts for the country. Malaria Consortium does not give out gifts, although within projects, some activities, such as low cost incentives to voluntary workers, may be acceptable. These must be within the original project and its budget as agreed with the donor.

The register will be accessible by the Country Director, internal and external auditors and to regional and HQ staff performing checks on visits to the country.

Facilitation payments and kickbacks

Malaria Consortium does not make, and will not accept, facilitation payments or “kickbacks” of any kind. Facilitation payments are typically small, unofficial payments made to secure or expedite a routine government action by a government official, for example to clear goods or persons through customs. Kickbacks are typically payments made in return for a business favour or advantage, for example, to reduce delivery time on goods and services. All employees must avoid any activity that may lead to, or suggest, that a facilitation payment or kickback will be made or accepted on behalf of Malaria Consortium.

Donations

Malaria Consortium does not make contributions of any kind to political parties.

Financial Systems

Malaria Consortium will keep financial records and ensure appropriate internal controls are in place to ensure there is an evidence trail for any payments made to third parties, in order to prevent corrupt payments taking place.

All expense claims relating to hospitality, gifts or expenses incurred to third parties must be submitted in accordance with the financial procedures and must specifically record the reason for the expenditure.

All accounts, invoices, memoranda and any other documents and records relating to dealings with third parties, such as clients, suppliers and other business contacts, must be prepared and maintained with strict accuracy and completeness. No accounts must be kept “off-book” to facilitate or conceal any payments.

Whistle Blowing

Employees are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage in accordance with Malaria Consortium’s Whistle Blowing Policy. Malaria Consortium will apply criminal and administrative sanctions in a robust manner to demonstrate a zero tolerance to bribery.

Monitoring

The effectiveness of this policy will be regularly reviewed by the Board of Trustees and internal control systems and procedures will be subject to audit under the internal audit

Anti-Fraud and Anti-Corruption Policy

1. Purpose and context

The aim of Malaria Consortium's fraud and anti-corruption policy is to minimise fraud through a series of measures, including clear policies and processes, regular internal and external audits and training for all staff.

2. Principles

Malaria Consortium is committed to investigate any and all suspected acts of fraud, misappropriation or other similar irregularity. Detecting fraud and corruption is everyone's responsibility and if any incident or potential incident is discovered staff must report it immediately, as required by Malaria Consortium's whistle blowing policy.

3. Scope

Malaria Consortium is committed to maintaining an untainted reputation with its donors, partners, beneficiaries and vendors. All Malaria Consortium employees and service providers are under obligation to maintain integrity in all actions and must avoid circumstances that compromise their decisions or actions. All employees must ensure that the ethical business practices and interests of the organisation are observed.

It is a major violation of Malaria Consortium's policies for employees or service providers to knowingly conceal, falsify or misrepresent a material fact relating to any transaction. Misrepresentation may include but is not limited to: signing for receipt of goods or services not yet received or completed, or altering any document to disguise or change the outcome, including the back-dating of documents. For employees proven violations will lead to disciplinary action up to dismissal from employment and legal action. For service providers proven violations will result in the immediate termination of their contract and the cessation of all business dealings.

4. Definition and terms

Fraud is defined in the Uganda Act, as false representation, failure to disclose information or abuse of position, in order to make a gain for yourself or another or to cause or expose another to a risk of loss. Fraud covers an act of deception, bribery, forgery, extortion, theft, misappropriation, false representation, conspiracy, corruption, collusion, embezzlement, or concealment of material facts.

Anti-corruption: relates to the measures taken to eradicate or prevent dishonest or fraudulent conduct.

Both corruption and fraud amount to abuse and theft. Acts of fraud and corruption include, but are not restricted to:

-) Falsifying time sheets or payroll records
-) Falsifying travel and entertainment expenses
-) Fictitious reporting of receipts from suppliers or shipments to customers
-) Creation of false invoices or purchase orders, including the back-dating of documents
-) Misappropriation of Malaria Consortium and donor equipment, resources and even data
-) Misstatement of income
-) Misstatement of assets
-) Understatement of liabilities
-) Paying bribes, that is payment to another person to induce a certain action from them, this includes payments to officials such police officers requesting unofficial payments on road blocks
-) Receiving money or gifts in order to undertake a certain action for example ordering with a specific supplier
-) Obtaining Malaria Consortium income or assets by deception
-) Claiming to provide services to beneficiaries that do not exist, and other forms of identify fraud

5. Implementation

Steps to mitigate occurrence

The organisation adopts the following anti-fraud measures to minimise its risk from fraudulent activity:

-) Clear policies on the expected conduct of staff in the organisation, for example Anti-Bribery and Code of Conduct communicated as part of induction programme and updates staff in team meetings.
-) Records and investigates all incidences including suspected and confirmed fraud, in line with MC Guidance on Conducting a Fraud investigation.
-) Reports fraud to the police and to the Charity Commission.
-) Implements robust controls and informs staff about the procedures and measures in place.
-) Ensures records of all income and expenditure are kept and receipts, invoices and supporting documents are adequate.
-) Checks that financial controls are not overridden, by-passed or ignored
-) Reconciles bank accounts monthly and conducts spot checks
-) Uses tiered delegated authority and signature levels for all payments
-) Restricts and closely monitors access to sensitive information
-) Implements an Internal Audit function reviewing processes and procedures on a risk basis
-) Establishes clearly defined roles for staff that include segregation of duties

Malaria Consortium has a zero tolerance to fraud and corruption. Malaria Consortium will apply robust sanctions to combat fraud and corruption including disciplinary action and reporting suspected criminal activity to the police.

Safeguarding Policy

1. Purpose and context

Malaria Consortium works with communities, governments, academic institutions, and local and international organizations, to ensure effective delivery of services. Our work often puts those that work for us in position of power in relation to children & vulnerable adults in the communities that we work with and we have an obligation not to abuse this power. Our capacity to ensure the protection of children & vulnerable adults depends on the ability of staff and partners to uphold and promote the highest standards of ethical and professional conduct.

Malaria Consortium has a strong commitment to the welfare of all beneficiaries and their protection from harassment abuse and exploitation to provide safeguards in all of our work with communities. Children and vulnerable adults in those communities can be at particular risk and, it is a collective responsibility to prevent abuse and exploitation.

In recognizing our responsibility to protect children and vulnerable adults from any harm that may be caused due to their coming into contact with the organization, Malaria Consortium has developed a Safeguarding Policy, which outlines this commitment and its implications. This policy aims to deter, minimize and remove opportunities for abuse to occur and includes details of how any alleged breaches of the policy can be reported.

The Safeguarding Policy is accompanied by appendices containing reference information, guidelines, essential forms (e.g. Safeguarding Incident Reporting Form), and must be read in conjunction with its appendices and the [Code of Conduct](#), [Equal Opportunities Policy](#) and [Dignity at Work Policy](#).

This policy is aligned with general international standards including the United Nations Convention on the Rights of the Child. The organization will comply with laws relating to human trafficking as set out in our [Modern Slavery Statement](#). While Malaria Consortium staff and partners will comply with local legislation, if the standards outlined in this policy are stronger than local legislation, then this policy is to be followed.

The Safeguarding Policy applies to all staff members; any failure to uphold the standards outlined within the policy may result in disciplinary action or dismissal, in accordance with Malaria Consortium's disciplinary procedures. All staff members and partners; trustees, consultants, contractors, volunteers, interns, partner agencies, sub-grantees, community workers and visitors to projects are expected to abide by this policy.

2. Principles

The Safeguarding Policy is committed and guided by the following set of principles:

2.1 Mandatory Compliance

Malaria Consortium staff members and partners must ensure they understand the Safeguarding Policy, their responsibilities and how to report any wrongdoing or concerns. This policy, and its accompanying appendices are mandatory for all Malaria Consortium staff and partners and no exceptions will be made.

Malaria Consortium complies with reporting requirements from donors and relevant bodies on Safeguarding and Human Trafficking concerns.

2.2 Upholding of Protection Rights

- All children and vulnerable adults have equal rights to protection from harm. They should be empowered to understand their rights in this area, and made aware of what is acceptable and what they can do if there is a problem or concern.
- Everybody has a responsibility to support the protection of children and vulnerable adults.
- Organizations have a duty of care to children and vulnerable adults with whom they work, are in contact with, or who are affected by their work and operations.

- If working with partners, organizations have a responsibility to help any partner meet the minimum requirements on protection.
- The Human Rights of children and vulnerable adults will be respected and everyone the organization comes into contact with will be treated with respect and dignity regardless of age, disability, gender, civil status, race, religion or belief; gender and sexual orientation.
- No form of discrimination, harassment, or abuse (physical, sexual or verbal), intimidation or exploitation is acceptable.
- The best interests of the child or vulnerable adult will guide safeguarding decisions.

2.3 Zero Tolerance of Abuse and Exploitation

- Malaria Consortium operates a zero tolerance approach to abuse and exploitation. [Under no circumstances will any abuse by Malaria Consortium staff and partners be tolerated, and any instances will be dealt with according to Malaria Consortium disciplinary procedures and referred to local authorities].
- The organization is open and transparent. Safeguarding concerns will be raised and discussed, poor practice and inappropriate behavior will be challenged and addressed, and safeguarding measures will be continuously reviewed and strengthened to ensure the organization remains accountable to children and vulnerable adults.
- Managers have a particular responsibility to uphold the highest standards, to set a good example, and to create a working environment that supports and empowers staff. They have a responsibility to understand and promote the policy. They must do all they can to prevent, report and respond appropriately to any concern or potential breaches of the policy.
- Zero tolerance of inappropriate behavior applies whether a proven incident happen in or out of working hours.
- Malaria Consortium safeguarding approach prevails in all the stages of our operations, projects and activities, thus ensuring the organization does not harm children and vulnerable adults.

3 Scope

The policy applies to all staff and partners: Trustees, consultants, contractors, volunteers, interns, partner agencies, sub-grantees, community workers and visitors to projects. In this policy “Staff Members” is taken to refer to all these categories.

4 Definitions and terms

The following definitions will be used throughout the policy. Further definitions can be found in **Appendix I**.

Child: This policy regards a child as anyone under the age of 18 years, irrespective of alternative local definitions.

Protection: Protection includes ensuring that individual basic human rights, welfare and physical security are recognized, safeguarded and protected in accordance with international standards.

Safeguarding: safeguarding is the combination of policies and actions undertaken to protect children and vulnerable adults by mitigating risks, responding to and referring cases, to ensure no harm as a result of association with the organization.

Sexual exploitation: Is the abuse of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the sexual exploitation of another. Prostitution, human trafficking for sexual abuse, modern slavery and exploitation are only some examples of this.

Vulnerable adult: is defined as someone over the age of 18 unable to take care of themselves / protect themselves from harm or exploitation; or who, due to their gender, mental or physical health, disability, or as a result of disasters and conflicts, are deemed to be at risk of being abused.

5 Implementation

Malaria Consortium will work to reduce the risk of abuse and exploitation of children and vulnerable adults by staff and partners by following the procedures outlined below.

For each country where Malaria Consortium operates, the Country Director will act as the Safeguarding Focal point. For the UK office, the focal point will be the HR Director. The Safeguarding focal point will serve as the first point of contact for any safeguarding concerns and support staff in understanding Malaria Consortium's safeguarding responsibilities. There is a designated Trustee that acts as the organization's Safeguarding Focal Point who oversees the implementation of this policy.

5.1 Prevention

5.1.1 Risk Assessment and Programme Design

Malaria Consortium will design programmes in a way which takes into account potential risks to children and vulnerable adults, and acts to minimize any identified risks. Risks can be intended or unintended, and can be from Malaria Consortium staff, volunteers, vendors, or others associated with the organization. Risks can also be incidental, such as an activity in which mothers are expected to leave their children at home unattended. Malaria Consortium incorporates safeguarding into any standard risk assessment it conducts when designing a new project (see **Appendix III, Safeguarding Risk Assessment Checklist**). All projects approved will be assessed for their potential risks to children and vulnerable adults, and mitigation strategies developed. Project managers will be responsible for conducting a safeguarding risk assessment for each of their projects, and ensuring the policy is implemented at all times.

On completion of the **Safeguarding Risk Assessment Checklist (Appendix III)**, the project/programme manager must liaise with the Country or Regional Director (as Safeguarding Focal person) to discuss risks and scores and a risk level must be agreed for job descriptions, please see **Malaria Consortium Safeguarding Risk Levels (Appendix II)**. The Country or Regional Directors are responsible for ensuring that all job descriptions reflect the level of risk for each role and the actions that should be taken to mitigate the risk are written and approved and signed by the Regional Programmes Director and the Human Resource Director. The allocation of the right risk level of a particular job description will be assessed as part of the job evaluation process.

5.1.2 Recruitment and Selection

The organization has in place guidelines covering the recruitment process of all staff, which can be found in the [Recruitment Policy and Procedure](#). The recruitment guidelines will be reviewed and updated regularly to ensure that they accurately reflect 'safe recruiting' and screening standards.

5.1.3 Checks

Malaria Consortium's recruitment policy requires that at least two independent references are received, one of which must be the most recent employer. All staff hired by the organization will be required to complete a self-declaration regarding criminal convictions. Where possible, the organization undertakes Disclosure Barring Service (DBS) checks, or local security checks where they exist and the organization is legally allowed to request this information

5.1.4 Induction and Training

The organization includes Safeguarding as part of the Induction and provides training for all staff (and those associated with the organization's work) in order to ensure they are fully aware of their responsibilities to: protect children and vulnerable adults; behave appropriately; and report concerns or allegations about exploitation and abuse. Malaria Consortium will conduct refresher training for all staff in the [Safeguarding Policy](#) at least every two years. The Project or Programme Manager will be responsible for introducing the policy to beneficiary communities, both in writing and orally.

5.1.5 Informing Communities and receiving complaints

Each Malaria Consortium office location or project should inform communities on the conduct to expect of staff and partners of the Malaria Consortium. Considerations should be made as to how community members, including children, can raise concerns over inappropriate behavior by staff. This could include comment boxes, regular announcements to communities in verbal, or written form, ensuring the **Safeguarding Behavioral Guide (Appendix IV)** is translated into all relevant languages and available in illustrative, low-literacy and/or a child-friendly format where possible.

5.1.6 Regulation of Communications – Use of Images and Children and Vulnerable Adults Information

Malaria Consortium recognizes that children and vulnerable adults can be unintentionally put at risk through images, video, or other documentation and images. In order to minimize any risk to children, Malaria Consortium will ensure that the organization's [Photography and Film Guidelines](#) are strictly

followed. All project managers are responsible for reviewing photography and film captured during the course of their project, before they are used in the public domain, for any potential breach of the [Safeguarding Policy](#). If in doubt about a certain image, all staff should clear any materials involving children with the Head of External Relations.

Social media

Malaria Consortium recognizes that there are certain risks particular to children and vulnerable adults, which can be posed by staff using work photos on their personal social media sites. For this reason, no staff member, volunteer, trustee, agency, company or consultant employed by Malaria Consortium will not post photos relating to the organization's activities, on personal social media sites such as Facebook, Twitter, Instagram, without the express permission of the person whose photo has been taken. This permission must be captured in line with Malaria Consortium guidelines on filming of children and vulnerable adults in the [Photography and Film Guidelines](#). Any photo or film taken for promotional purposes or project reporting must have informed consent from the contributor/s, obtained and recorded using the organization's [Media Consent Form](#).

5.2 Responsibilities

5.2.1 Staff and Partners

Part of safeguarding children and vulnerable adults is ensuring that all Malaria Consortium staff and partners understand clearly the behavior that is expected of them when they come into contact with children and vulnerable adults. All staff and partners working in or visiting Malaria Consortium Programmes are expected to read and adhere to the **Safeguarding Behavioral Guide in Appendix IV**.

As well as adhering to the organizations [Code of Conduct](#), all staff and those associated with the work of Malaria Consortium are expected to work within the standards outlined below. These Standards are intended to serve as an illustrative guide for staff to make ethical decisions in their professional lives, and at times in their private lives. While acknowledging that local laws and customs may differ from one country to another, these measures are based on international standards:

- Treat all children & vulnerable adults (and all beneficiaries) fairly and with respect & integrity and to be aware of the power that they can have over beneficiaries by virtue of their engagement with Malaria Consortium.
- Act in a way that seeks to care for and protect the rights of children & vulnerable adults and ensure that their best interests are paramount.
- Safeguard and make responsible use of information and resources. This includes the exercise of due care in all matters of official business, and not divulging confidential information about beneficiaries.
- Uphold the integrity of the organization, by ensuring that personal and professional conduct is, and is seen to be, of the highest standard.
- Report any abuse by a staff member, consultant, volunteer, intern or partner to the Director or Human Resources and other appropriate authorities.
- Ensure that another appropriate adult is present when working in the proximity of children or vulnerable adults.
- Never engage in any exploitative relationships – sexual, emotional, financial or employment related – with a beneficiary. This is regardless of the local age of consent, i.e., the local or national laws of the country. Failure to report such a relationship may also lead to disciplinary action.
- Refrain from any involvement in criminal or unethical activities that contravene human rights.
- Follow the guidelines when photographing or filming a child or vulnerable adults.
- Never shortcut safe recruitment procedures

5.2.2 Management responsibilities

This Safeguarding Policy and accompanying Appendices are approved by the Board of Trustees of Malaria Consortium. The Global Management Group (GMG) oversees implementation of the policy at a global level. Regional Directors and Country Directors are responsible for ensuring that regional and

country programmes are fully implementing the Safeguarding Policy.

5.3 Reporting

5.3.1 Incident Reporting

It is mandatory for any allegation, belief about or suspicion of, abuse, neglect or exploitation of a child or vulnerable adult by a Malaria Consortium staff member or partner to be reported immediately to the HR Director (or, in their absence, to the Chief Executive). The reporting may come via the Country Director if it is more practicable to do so and the line manager of any member of staff accused should be kept informed.

If a beneficiary (including a child or vulnerable adult) or their carer reports an incident, they must be taken seriously and listened to carefully. Once an allegation is made there should be an immediate response that protects them from further potential abuse or victimization. Where appropriate, the family/carers of the victim should be informed of the allegation and action proposed and they should be consulted where possible as to the process to be followed. This process will be led by the Country or Regional Director, in close liaison with the HR Director.

The procedure for reporting concerns can be found in section 6 of this document. Incidents should be detailed in the **Safeguarding Children and Vulnerable Adults Incident Reporting Form (Appendix V)**. Beneficiaries should report their concern to a representative of the organization and this employee will follow the internal procedure as stated in section 6.

5.3.2 Confidentiality of reporting

Reported breaches to the Safeguarding Policy will be kept confidential, and information shared only with relevant individuals. For internal cases, the following parties are likely to be informed: the HR Director, Internal Audit Manager, Chief Executive, and the Board of Trustees. Donors will be informed where there is a mandate to do so and, Trustees will report serious incidents to the Charity Commission. The name of the reporting staff member will be protected under Malaria Consortium's [Whistleblowing Policy](#), the name of the child or vulnerable adult, their family, and community involved will be kept strictly confidential, and divulged only when absolutely necessary, and then only to relevant individuals.

5.3.3 External incidents

There may be cases when Malaria Consortium staff, volunteers and others come across incidents of abuse or exploitation which may be committed by someone not connected with Malaria Consortium, at times within beneficiary communities and at other times in the broader community. Such incidents do not constitute a breach of the Safeguarding Policy, as they have not been perpetrated by a Malaria Consortium staff member or other person or entity associated with Malaria Consortium. However, as children and vulnerable adults are beneficiaries in the communities in which Malaria Consortium works, and the health and wellbeing is of paramount concern, staff members have a moral obligation not to ignore external cases, but report to the Country Director. The Country Director will be responsible for referral to an external agency or service provider as appropriate and will also notify the HR Director and Chief Executive. There are also formal processes under USAID funding for incidents to be reported.

5.4 Breaches

Any reported breaches of the Safeguarding policy will be ultimately reported to the Chief Executive who will then inform the Board of Trustees.

5.4.1 Investigation

Any alleged breach of the Safeguarding policy will be investigated and dealt with under the Malaria Consortium [Disciplinary Policy and Procedure](#). Investigations will differ depending on the type and severity of the concern, but at a minimum will:

- Have one person who will receive and follow up on concerns (the Country Director or HR Director), and support the investigation.
- Ensure that the Country or Regional Director / HR Director receives the report within 24 hours of the incident occurring or being raised.

- Maintain at all times confidentiality of the alleged offender, the whistle blower, the child or vulnerable adult, their family and community (refer to Malaria Consortium [Whistleblowing Policy](#)).
- Cooperate with local and international authorities, including but not limited to, police in any criminal investigation, keeping in mind the best interests of the child or vulnerable adult and their family.

5.4.2 Disciplinary measures

Where an investigation involving a member of staff finds there is a case to answer, the employee will be invited to a disciplinary hearing in line with the [Disciplinary Policy and Procedure](#). If upheld, the disciplinary sanction will vary with the severity of the breach, and will always be applied using the best interests of the child or vulnerable adult. If the disciplinary hearing finds gross misconduct has taken place, the staff member will be immediately terminated. For less severe breaches, Malaria Consortium will employ various responses ranging from verbal warning, written warning, refresher training and referral to counselling, or a review of current job responsibilities.

5.4.3 Procedures for criminal breaches

If it is suspected that the breach is criminal in nature, local authorities will be contacted by the Country Director, taking into account what is in the best interests of the child or vulnerable adult and the safety of their family and community. The member of staff or partner will be suspended or removed from contact with children or vulnerable adults. Where it is required by a donor, they should be informed of criminal breaches within the time-frame specified.

5.5 Monitoring and Review

Implementation of this policy and procedure will be reviewed at the local level on an annual basis. If political, security, or programme changes warrant a more frequent review, this is the responsibility of the Country Director, with support from HQ.

Implementation will be monitored through regular field project visits. Monitoring of risks to children and vulnerable adults, risk mitigation, and the effectiveness of safeguarding measures will be incorporated in the existing Malaria Consortium Quarterly Country Risk Register. This Safeguarding Policy will be reviewed every two years, unless changes in programme, political or security situation warrant earlier action.

Appendix I: Safeguarding Definitions

The following definitions explain terms used throughout the policy.

Child labour: The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:

1. Is mentally, physically, socially or morally dangerous and harmful to children; and
2. Interferes with their schooling by:
 - Depriving them of the opportunity to attend school;
 - Obliging them to leave school prematurely; or
 - Requiring them to attempt to combine school attendance with excessively long and heavy work.

Child Pornography: In accordance with the UNCRC Optional Protocol to the Convention on the Rights of the Child, ‘child pornography’ means ‘any representation, by whatever means of material, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child

for primarily sexual purposes.’

Child Protection: In its widest sense, child protection is a term used to describe the actions that individuals, organizations, countries and communities take to protect children from acts of “harm” maltreatment (abuse) and exploitation e.g., domestic violence, exploitative child labour, commercial and sexual exploitation and abuse, deliberate exposure to HIV or other infections and physical violence. It can also be used as a broad term to describe the work that organizations undertake in particular communities, environments or programmes that protect children from the risk of harm due to the situation in which they are living.

Discrimination: Discrimination includes the exclusion of, mistreatment of, or action against an individual based on social group, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, national origin, political affiliation or disability.

Duty of Care: Duty of Care is a common law concept that refers to the responsibility of the organization and individual to provide children with an adequate level of protection against harm. It is the duty of the organization and its individuals to protect children from all reasonably foreseeable risk of or real injury.

Emotional abuse: Emotional abuse occurs when a child or vulnerable person is repeatedly rejected or frightened by threats. This may involve bad name calling, persistent shaming, constant criticism, solitary confinement and isolation, humiliation, or continual coldness from parent or caregiver, to the extent that it affects the child’s physical and emotional growth.

Gender Based Violence: The term “gender-based violence” refers to violence that targets individuals or groups on the basis of their gender. The United Nations’ Office of the High Commissioner for Human Rights’ Committee on the Elimination of Discrimination against Women (CEDAW) defines it as “violence that is directed against a woman because she is a woman or that affects women disproportionately”, in its General Recommendation 19. This does not mean that all acts of violence against a woman or a girl child are gender-based violence, or that all victims of gender-based violence are female.

Grooming: Refers to behaviour that makes it easier for an offender to procure a child for sexual activity. For example, an offender might build a relationship of trust with the child, their family or their community, and then seek to sexualise that relationship (for example by encouraging romantic feelings or exposing the child to sexual concepts through pornography). Grooming often involves normalizing their behaviour to everyone, not only the child, and can also involve bestowing gifts, favours or money on the child, their family, and/or the community.

Internal concerns: are those where persons covered by the policy are the alleged perpetrators. External concerns are abuses which would usually be considered criminal under local legislation, and perpetrated by persons not described in the scope of this policy. In situations where local legislation may be weaker than this policy and the **Safeguarding Behavioral Guide (Appendix IV)**, staff are obliged to abide by this policy, keeping in mind at all times the best interests of the child or vulnerable adult.

Location: For the purposes of this policy, “location” refers to any office or place where three or more Malaria Consortium staff are permanently based.

Neglect: Neglect is the persistent failure or the deliberate denial to provide a child with clean water, food, shelter, emotional support or love, sanitation, supervision or care to the extent that the child’s health and development are placed at risk.

Online grooming: The act of sending an electronic message with indecent content to a recipient, who the sender believes to be a child, with the intention of procuring the recipient to engage in or submit to sexual activity with another person, including but not necessarily the sender.

Partners: For the purposes of this policy, ‘partners’ refers to Malaria Consortium Trustees, volunteers, community workers, interns, consultants, contractors, partner agencies, sub-grantees and visitors to projects.

Physical abuse: Physical abuse occurs when a person purposefully injures or threatens to injure a child or vulnerable person. This may take any form of physical treatment including but not limited to slapping, punching, shaking, kicking, burning, shoving or grabbing. The injury may take any form including but not limited to bruises, cuts, burns or fractures.

Safe Environment: A child/vulnerable adult-safe environment is one where active steps are taken to reduce risks of harm against, and there are clear, established guidelines and procedures for conduct, reporting abuse and follow-up.

Safeguarding Focal Person: The Safeguarding Focal Person for Malaria Consortium will be the Country or Regional Director who will serve as the first point of contact for any safeguarding concerns and support staff in understanding Malaria Consortium’s safeguarding responsibilities.

Sexual abuse: Sexual abuse is actual or threatened physical intrusion of a sexual nature, including inappropriate touching, by force or under unequal or coercive conditions. Examples of this include the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include physically touching genitals/body, masturbation, or penetration, voyeurism, exhibitionism, and exposing the child to, or involving the child in, pornography.

Sex tourism: Tourism, usually by individuals or groups from developed countries to poor or developing countries, for the specific purpose of accessing children or adults in those countries for commercial sexual exploitation purposes.

Sex trafficking: The movement of children or adults from one place to another, usually with the exchange of money, for the purpose of involving those children or adults in commercial sex work or for other sexual exploitation, such as forced marriage.

Survivor: The person who has been abused or exploited. The term “survivor” is often used in preference to “victim” as it implies strength, resilience and the capacity to survive, however it is the individual’s choice how they wish to identify themselves.

Contract Conditions

A. General

1. Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) The “Adjudicator” is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance.
 - (b) “Admeasurement Contract” means a Contract under which the Works are executed on the basis of agreed rates and prices in a Bill of Quantities and payment is made for the quantity of work actually executed.
 - (c) “Bill of Quantities” means the priced and completed Bill of Quantities forming part of the Bid, which provides the agreed rates and prices for payment for an Admeasurement Contract.
 - (d) “Compensation Events” are those defined in Clause 44 hereunder.
 - (e) The “Completion Date” is the date of completion of the Works as certified by the Project Manager.
 - (f) The “Contract” is the agreement between the Employer and the Contractor to execute, complete, and maintain the Works.
 - (g) The “Contractor” is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer and is named as such in the Contract.
 - (h) The “Contractor’s Bid” is the completed bidding document submitted by the Contractor to the Employer.
 - (i) The “Contract Price” is the price stated in the Agreement and thereafter as adjusted in accordance with the provisions of the Contract.
 - (j) “Days” are calendar days; “months” are calendar months.
 - (k) “Dayworks” are varied work inputs subject to payment on a time basis for the Contractor’s employees and Equipment, in addition to payments for associated Materials and Plant.
 - (l) A “Defect” is any part of the Works not completed in accordance with the Contract.
 - (m) The “Defects Liability Certificate” is the certificate issued by the Project Manager upon correction of defects by the Contractor.
 - (n) The “Defects Liability Period” is the period calculated from the Completion Date, during which the Contractor must rectify defects.
 - (o) “Drawings” include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
 - (p) The “Employer” is the party named in the Agreement, who employs the Contractor to carry out the Works;

The Employer is: Malaria Consortium Uganda

- (q) “Equipment” is the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works.
- (r) The “Initial Contract Price” is the Contract Price listed in the Agreement.
- (s) The “Intended Completion Date” is the date on which it is intended that the Contractor shall complete the Works.
- (t) “Materials” are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (u) “Plant” is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (v) The “Project Manager” is the person named in the Contract conditions (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

The Project Manager is: Deloitte (Uganda) Limited

- (w) “Provisional Sum” means a sum included in the Contract and so designated in the Bill of Quantities for the provision of supplies, works or services or for contingencies to be expended for the execution of the Works in whole or part at the direction of the Project Manager.
- (x) The “Site” is the area defined as such in the Contract conditions. The site is located at:

LOT	REGION	HCs	Districts	Site No / Names of HCs	Contract duration
LOT 2A	Central – Kampala	1	Luweero	201 - Wabusana HC III	8 months

- (y) “Site Investigation Reports” are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (z) “Specification” means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (aa) The “Start Date” is the latest date by when the Contractor shall commence execution of the Works.

The Start Date shall be: Four (4) weeks after contract signing.

- (bb) A “Subcontractor” is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (cc) “Temporary Works” are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (dd) “Unit Rate” includes all costs for carrying out the activity covered by the unit.
- (ee) A “Variation” is a written instruction given by the Project Manager which varies the Works.

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- (ff) The “Works” are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the contract conditions.

The Works shall consist of Construction of:

-) **Re-modelling or renovation of Out-Patients Department (OPD) building;**
-) **Improvement of Waiting areas;**
-) **Improvement of Antenatal (ANC) areas in Maternity building;**
-) **Limited sanitation facilities**
-) **Limited external works**

Other definitions: For avoidance of doubt, throughout the contract document(s):

- (gg) “Employer Group” consists of Funding Agency, Beneficiary Clients, Malaria Consortium and Sub-Contractors under MAPD and should be interpreted individually or collectively as relevant throughout the contract document;
- (hh) “Beneficiary” means the Government of Uganda represented by the Ministry of Health. Where required, the beneficiary District and Health Centre benefiting from this support may be indicated;
- (ii) “Client” means the Funding Agency namely USAID;
- (jj) “Contracting Party” means the Employer namely Malaria Consortium Uganda;
- (kk) “Project Manager” means Deloitte (Uganda) Limited.

1. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 These Conditions of Contract shall apply in their entirety, except where alternative options are specified.
- 2.3 For purposes of interpreting these Conditions of Contract, the type of contract is:
Admeasurement Contract
- 2.4 If sectional completion is specified, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

Sectional completion (partial handover) may be permitted only on Renovated Structures.

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- 2.5 The documents forming the Contract shall be interpreted in the following order of priority:
- (1) Agreement,
 - (2) Letter of Acceptance,
 - (3) Contractor's Bid,
 - (4) Conditions of Contract,
 - (5) Specifications,
 - (6) Drawings in conjunction with Bill of Quantities,
 - (7) Site investigation report and
 - (8) any other document duly agreed to form part of the Contract.
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3. Language and Law

The language of the Contract is **English** and the law governing the Contract is that of **the Republic of Uganda**.

4. Project Manager's Decisions

Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

5. Delegation

The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor in writing, and may cancel any delegation after notifying the Contractor.

6. Notices

- 6.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified below. The term "in writing" means communicated in written form with proof of receipt.
- 6.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 6.3 Notices to the Employer shall be delivered to the following address:

MALARIA CONSORTIUM UGANDA
USAID's Malaria Action Programme for Districts (MAPD)
Plot 3, Katonga road, Nakasero, Kampala
P.O Box 8045, Kampala, Uganda, East Africa
Telephone:
Fax:
Email:
Alternate:

Attention of: The Chief of Party/ MAPD (for non-technical aspects)

Attention of: The Project Manager for Works/ MAPD (for technical aspects)

6.4 For Notices, the Contractor's address shall be:

Company Name:
Street/ plot address:
Postal address:
Telephone/ Fax:
E-mail:
Attention of :

7. Subcontracting

The Contractor shall not subcontract, sub-let or assign any portion of the Works without the approval of the Project Manager, and shall not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.

8. Other Contractors

8.1 Where applicable, the Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, if such Schedule is specified in the contract. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

9. Personnel

9.1 The Contractor shall employ the key personnel named in the Schedule of key personnel, or other personnel approved by the Project Manager, to carry out the functions stated in the Schedule. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.

9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven week days and has no further connection with the work in the Contract.

10. Employer's and Contractor's Risks

10.1 The Employer carries the risks which the Contract states are Employer's risks, and the Contractor carries the risks which the Contract states are Contractor's risks.

11. Employer's Risks

- 11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:
- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
 - (i) use or occupation of the Site by the Employer Group; or
 - (ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
 - (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to:
- (a) a Defect which existed on the Completion Date;
 - (b) an event occurring before the Completion Date, which was not itself an Employer's risk; or
 - (c) the activities of the Contractor on the Site after the Completion Date.
- 11.3 Any risks directly arising from designs, specifications and statutory approvals will also be Employer's risks.

12. Contractor's Risks

- 12.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not the Employer's risks are the Contractor's risks.

13. Insurance

- 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
 - (b) loss of or damage to Equipment;
 - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
 - (d) personal injury or death.

The minimum insurance covers shall be:

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- (a) The minimum cover for insurance of the Works, Plant and Materials in respect of the loss or damage is **an amount equivalent to the Contract Price.**
 - (b) The maximum deductible for insurance of the Works, Plant and Materials is **an amount equivalent to 3% of the Contract Price.**
 - (c) The minimum cover for loss or damage to Equipment is: **Ushs.3,000,000/-**
 - (d) The maximum deductible for insurance of Equipment is: **Ushs.1,000,000/-**
 - (e) The minimum cover for insurance of property is: **Ushs.10,000,000/-**
 - (f) The maximum deductible for insurance of property is: **Ushs.1,000,000/-**
 - (g) The minimum cover for personal injury or death insurance is:
 - **for Contractor's employee is Ushs.10,000,000/-**
 - and for other people, (third party) Ushs.30,000,000/-**
- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.
- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.

14. Site Investigation Reports

- 14.1 The Contractor, in preparing the Bid, shall consider any Site Investigation Reports, supplemented by any information available to the Bidder.

15. Queries about the Conditions of Contract

- 15.1 The Project Manager will clarify queries on the Conditions of Contract.

16. Contractor to Construct the Works

- 16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings in conjunction with Bills of Quantities.

17. Works to Be Completed by the Intended Completion Date

- 17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date specified as: **8 months**
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18. Approval by the Project Manager

- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before use.
- 18.1 The Contractor shall be responsible for design of Temporary Works and shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager. The Project Manager shall approve such Specification and Drawing if they comply with the Specifications and Drawings in the Statement of Requirements.
- 18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

19. Safety

- 19.1 The Contractor shall be responsible for the safety of all activities on the Site.

20. Discoveries

- 20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be held by the Employer and shall remain exclusive property of the Beneficiary. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

21. Possession of the Site

- 21.1 The Employer shall give possession of all parts of the Site to the Contractor within **Two (2) weeks after contract signing**. If possession of a part is not given by four (4) weeks after contract signing, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

22. Access to the Site

- 22.1 The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

23. Instructions, Inspection and Audits

- 23.1 The Contractor will only take instructions from the Project Manager or such other person duly delegated by the Project Manager.
- 23.1A The Project Manager may designate a resident Clerk of Works who will carry out day to day site supervision. Site instructions by Clerks of Works shall remain administrative/ procedural for adherence to designs and specifications and/or any other operational matter at the site affecting execution of works.
- 23.1B In **no** circumstance shall the Contractor execute any form of instruction(s) with cost implications issued by the Clerk of Works or any other party not allowed under the contract provisions.
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- 23.2 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 23.3 The Contractor shall permit the Government of Uganda or USAID to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Government or USAID, if so required by the Government or USAID.

24. Disputes

- 24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to any Adjudicator appointed under the Contract within 14 days of the notification of the Project Manager's decision.

25. Procedure for Disputes

- 25.1 The procedure for disputes shall be as specified in GCC 25.2 to 25.4.
- 25.2 Any Adjudicator appointed under the contract shall give a decision in writing within 28 days of receipt of a notification of a dispute, providing that he is in receipt of all the information required to give a decision.
- 25.3 The Adjudicator proposed by the Malaria Consortium is the:
President, Uganda Institution of Professional Engineers (UIPE); at an hourly fee of **US \$ 50** plus approved reimbursable expenses and the cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
- 25.4 Any arbitration shall be conducted in accordance with the **Arbitration law of Uganda**, and shall take place in: **Kampala**

26. Replacement of Adjudicator

- 26.1 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the **President, Uganda Institution of Professional Engineers (UIPE)**; at the request of either party, within 14 days of receipt of such request.
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B. Time Control

27. Program

- 27.1 **Within 5 days of delivery of Letter of Acceptance**, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 27.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 27.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than: **8 weeks**.
- If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount of: **UGX 5,000,000** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 27.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.
-

28. Extension of the Intended Completion Date

- 28.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 28.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 14 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.
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29. Acceleration

- 29.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 29.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.
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30. Delays Ordered by the Project Manager

- 30.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
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31. Management Meetings

- 31.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure detailed in Clause 32.
- 31.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

32. Early Warning

- 32.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 32.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

33. Identifying Defects

- 33.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

34. Tests

- 34.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

35. Correction of Defects

- 35.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period;
- 35.2 The Defects Liability Period shall be: **6 months and shall be extended for as long as Defects remain to be corrected.**
- 35.3 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
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36. Uncorrected Defects

- 36.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

D. Cost Control

37. Bill of Quantities

- 37.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 37.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

38. Changes in the Bill of Quantities

- 38.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds one percent (1%) of the Initial Contract Price, the Project Manager may allow adjustment of the rate to accommodate the change.
- 38.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.
- 38.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

39. Variations

- 39.1 All Variations shall be included in updated Programs produced by the Contractor.

40. Payments for Variations

- 40.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 40.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 38.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 40.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
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- 40.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.
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41. Cash Flow

Not applicable

42. Interim Payment Certificates

- 42.1 The Contractor may request for Interim payments only after completion of stages determined by the Project Manager, in any case comprised of completed elements of the Works;
- 42.2 The Interim payment schedule will be as follows:
- (a) upon completion of the Substructure Works (including Ground floor slab);
 - (b) upon completion of the Walling and Frame;
 - (c) upon completion of Roofing Works (including rain water harvesting)
 - (d) upon completion of fitted Windows and Doors;
 - (e) upon completion of Finishes, M& E Installations, Fixtures and External Works;
 - (f) Any other stages as may be determined by the Project Manager.
- 42.3 The Project Manager shall check the Contractor's statement and certify the amount to be paid to the Contractor.
- 42.4 The value of work executed shall be determined by the Project Manager.
- 42.5 Valuations and Interim payment Certificates shall be determined and issued within 30 days after receipt of the Contractor's application and supporting documentation for payment.
- 42.6 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed for Admeasurement Contracts
- 42.7 The value of work executed shall include the valuation of Variations and Compensation Events where applicable.
- 42.8 The Project Manager may allow un-fixed goods and materials on site to be included in the valuation for interim payments.
- 42.9 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.
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43. Payments

- 43.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall
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be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

43.1A The Contractor's bank account details for contract payments are as follows:

Bank name:

Branch/ address:

Account name:

Account number:

- 43.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 43.3 All payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.
- 43.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

44. Compensation Events

44.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in clause 21.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance or Agreement from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The effects on the Contractor of any of the Employer's Risks.
- (j) Other Compensation Events described in the contract or determined by the Project Manager shall apply.

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- 44.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 44.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.
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45. Tax

- 45.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 47.
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46. Currencies

- 46.1 All payments shall be made in **Uganda Shillings**
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47. Price Adjustment

The contract is NOT subject to price adjustment of Unit rates

48. Retention

- 48.1 The Employer shall retain from each payment due to the Contractor the proportion of **10%** until Completion of the whole of the Works. **The maximum amount of payment to be retained for the whole of the Works is 5% percent of the final Contract price;**
- 48.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.
- 48.3 On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee.
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49. Liquidated Damages

- 49.1 The Contractor shall pay liquidated damages to the Employer at the rate per day of **0.05% of final Contract price for each day** that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed **5% of final Contract price.**
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The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

- 49.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 43.1.
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50. Bonus - Not applicable

51. Advance Payment

- 51.1 The Employer may make advance payment to the Contractor of the **amounts not exceeding 20% of Initial Contract price within 30 days**, against provision by the Contractor of an on demand Bank Security in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.
- 51.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilisation expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 51.3 The advance payment shall be repaid by deducting equal or proportionate amounts from payments otherwise due to the Contractor starting at 20% of value of works executed and ending before 60% of works is executed. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.
- 51.4 Use of Advance shall be subject to discretionary audit by Malaria Consortium.
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52. Performance Security

- 52.1 The Contractor shall, within **seven (7) days after receipt of the Letter of Acceptance and prior to contract signature**, provide a Performance Security for the due performance of the Contract. The Performance Security shall be in the amount equivalent to **10% of the Contract Price** and shall be denominated in the types and proportions of the currencies in which the Contract Price is payable.
- 52.2 The proceeds of the Performance Security shall be payable to the Employer as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.

- 52.3 The Performance Security shall be in one of the forms stipulated by the Employer in the Contract, or in another form acceptable to the Employer and shall be issued by a bank or surety acceptable to the Employer.
- 52.4 The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.

53. Day Works

- 53.1 If applicable, the Day Works rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 53.2 All work to be paid for as Day Works shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 53.3 The Contractor shall be paid for Day Works subject to obtaining signed Dayworks forms.

54. Cost of Repairs

- 54.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

55. Completion

- 55.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed.

56. Taking Over

- 56.1 The Employer shall take over the Site and the Works within **fourteen (14) days** of the Project Manager's issuing a certificate of Completion.

57. Final Account

- 57.1 Penultimate Accounts: The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract executed up to Practical Completion within one month after Site Take over by the Employer. The Project Manager shall certify and issue a Penultimate Payment Certificate within 45 days and shall be regarded as an Interim payment.
- 57.2 Upon expiry of the Defects Liability Period, the Contractor shall within 10 days supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract.
- 57.3 The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 10 days of receiving the Contractor's

account if it is correct and complete. If it is not, the Project Manager shall issue within 10 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

58. Operating and Maintenance Manuals

- 58.1 If “as built” Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them to the Project Manager within 30 days after the Project Manager’s issuing a certificate of Completion.
- 58.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the sub-clause 58.1, or they do not receive the Project Manager’s approval, the Project Manager shall withhold the amount of: **UGX 10,000,000 (Uganda shillings Ten million only)** from payments due to the Contractor.
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59. Termination

- 59.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 59.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorised by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager’s certificate;
 - (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) the Contractor does not maintain a Security, which is required; and
 - (g) the rate of progress of the Works at any time during the period of the Contract is such that the completion of the Works will, as measured against the current Program, be delayed by the number of days for which the maximum amount of liquidated damages can be imposed.
 - (h) if the Contractor in the judgement of the Employer has engaged in corrupt or fraudulent practices in competing for or in the executing the contract.

For the purposes of this paragraph:

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- (a) “corrupt practice” means offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in a contract execution; and
 - (b) “fraudulent practices” means a misrepresentation of facts in order to influence a procurement processor the execution of a contract to the detriment of the Government, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Government of the benefits of free and open competition.

59.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 59.2 above, the Project Manager shall decide whether the breach is fundamental or not.

59.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

59.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

60. Payment upon Termination

60.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and **less 20% of the value of work not completed**. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.

60.2 If the Contract is terminated for the Employer’s convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

61. Property

61.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated due to the Contractor’s fault.

61.2 For avoidance of doubt, the plant and equipment referred to in this section means the plant and equipment which form part of the permanent works or are to be incorporated in the permanent works.

62. Release from Performance

62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work

carried out before receiving it and for any work carried out afterwards to which a commitment was made.

Section 5. Contract Forms

5.1 Performance Security

[The Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract, and should be denominated in the currency of the Contract].

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

Procurement Reference No: *[insert Procurement Reference Number]*

To: *[insert complete name and address of Employer]*

WHEREAS *[insert name and address of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to the Contract referenced above, dated *[insert date (as day, month and year) of contract]* to execute *[insert brief description of Works]* (hereinafter called “the Contract”);

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a security issued by a reputable guarantor for the sum specified therein as security for compliance with the Contractor’s obligations in accordance with the Contract;

AND WHEREAS the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert complete address of Guarantor]*, (hereinafter the “Guarantor”), have agreed to give the Contractor a security;

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Contractor, up to a total of *[insert currency and amount of Guarantee in words and figures]*, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract, without cavil or argument, any sum or sums within the limits of *[insert currency and amount of Guarantee in words and figures]* as aforesaid without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date 28 days from the date of issue of the Certificate of Completion.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

Name: *[insert complete name of person signing the Performance Security]*

In the capacity of *[insert legal capacity of person signing the Performance Security]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the Performance Security for and on behalf of: *[insert complete name of Financial Institution]*

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

5.2 Advance Payment Security

[The Advance Payment Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution. The draft is for an unconditional Security. The amount of the guarantee must represent the percentage of the Contract Price specified in the Contract, and should be denominated in the currency of the Contract].

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

Procurement Reference No.: *[insert Procurement Reference Number]*

To: *[insert complete name and address of Employer]*

In accordance with the payment provision included in the Contract referenced above, in relation to advance payments, *[insert complete name and address of Contractor]* (hereinafter called "the Contractor") shall deposit with the Employer a Bank Guarantee to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of *[insert currency and amount of guarantee in words and figures]*.

We, the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert full address of Guarantor]* (hereinafter "the Guarantor"), as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Employer on its first demand without whatsoever right of objection on our part and without its first claim to the Contractor, in the amount not exceeding *[insert currency and amount of guarantee in words and figures]*.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between the Employer and the Contractor, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until the Employer receives full repayment of the same amount from the Contractor.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

Name: *[insert complete name of person signing the Payment Security]*

In the capacity of *[insert legal capacity of person signing the Payment Security]*

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the Payment Security for and on behalf of: *[insert complete name of the Financial Institution]*

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