

THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF HEALTH, COMMUNITY DEVELOPMENT, GENDER, ELDERLY AND CHILDREN



CONTRACT DOCUMENT

CONTRACT NO:

FOR

CONSULTANCY SERVICES FOR CLERK OF WORKS FOR EMD AND ICU CONSTRUCTION
PROJECT AT MANYARA REGIONAL REFERRAL HOSPITAL.

EMPLOYER:

Manyara Regional Referral Hospital,
P.O Box 577,
BABATI , MANYARA.

CONSULTANT:

Tanzania Building Agency
P.O. Box 368
BABATI, MANYARA

January, 2022

FORM OF AGREEMENT

THIS AGREEMENT IS MADE the **07** day of **01, 2022** between Manyara Regional Referral Hospital **P.O.BOX 577 Manyara** (hereinafter called "the Client") on the one hand and **Tanzania Building Agency of P.O Box 368 Manyara** (hereinafter called" the Consultant/Clerk of Works") on the other hand.

WHEREAS, the Client wishes to have the Consultant perform the services hereinafter referred to as Consultancy Services **for Clerk of Works services for EMD and ICU Construction Project**

The following documents shall be deemed to form and be read and construed as part of this Agreement;

1. This Contract Agreement;
2. The Client's Notification of Award;
3. Letter of Acceptance;
4. Agreed Terms of Reference (ToR); and
5. Minutes of the Negotiation Meeting.

NOW THEREFORE THE PARTIES hereby agree as follows: -

1. Services

(i) The Consultant shall perform the services specified in Terms of Reference, which is made an integral part of this Contract ("the Services").

(ii) The Consultant shall provide the personnel as indicated in the agreed ToR to perform the Services.

(iii) The Consultant shall submit to the Client the reports in the form and within the time periods specified in the agreed ToR.

2. Terms

The Consultant shall perform the Services during the period commencing **07nd January, 2022** and continuing through **15th June, 2022** or any other period as may be subsequently agreed by the parties in writing.

3 Payment

Ceiling

For Services rendered pursuant to the agreed ToR, the Client shall pay the Consultant an amount of **Tanzanian Shillings, 2,800,000 (Say, two Million eight thousand Only)** to be paid monthly as shown in the table below. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.

Constancy Fee Structure

S/N	Description	Amount (Tshs.)
1	Consultancy Fee	2,800,000
2	Total	2,800,000

Schedule of Payments

The consultancy fee to be paid end of each month from **07nd January, 2022** to **15th June, 2022**

Payment Conditions

Payment shall be made in Tanzania Shillings no later than 30 days following submission by the Consultant of invoices in duplicate to the Coordinator designated in paragraph 4. **Not Applicable**

4. Project Administration

A. Coordinator

The Client designated **Medical officer in charge** as Client's Coordinator; the Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables by the Client and for receiving and approving invoices for the payment.

B. Reports

The reports listed in the agreed ToR, shall be submitted in the course of the assignment, and will constitute the basis of the payments to be made under this Contract.

5. Performance Standards

The Consultant undertakes to perform the Services with the highest standards of professional and

ethical competence and integrity.

6. **Confidentiality** The Consultant shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client.
7. **Ownership of Material** Any studies report or other material, graphic, software or otherwise, prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software.
8. **Consultant Not to be Engaged in Certain Activities** The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
9. **Insurance** The Consultant will be responsible for taking out any appropriate insurance coverage.
10. **Assignment** The Consultant shall not assign this Contract or sub-contract any portion of it without the Client's prior written consent.
11. **Law Governing Contract and Language** The Contract shall be governed by the laws of United Republic of Tanzania, and the language of the Contract shall be **English**.
12. **Dispute Resolution** Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of the United Republic of Tanzania.

TERMS OF REFERENCE

ENGAGEMENT OF CLERK OF WORKS TO PROJECTS

1.0 Introduction

Pursuant to buildings and engineering regulations, a Clerk of Works will act as employer's agent working under the directives of the Project Manager/Architect or any appointed professional representative of the Employer at site.

Key role of the Clerk of Works is solely based on the impartiality actions, ensuring always the value for money is attained whilst the interests of the employer are fully maintained to the best ending of the project execution. The motive is further extended to ensure that the side part of the contractor is not subjected to sufferings in order to achieve best practices and reliable output of the project through rigorous and detailed inspection of materials and workmanship throughout the building process. In many cases, the title bearer (clerk of Works) has to comply with modern sites execution trends, such as site inspector, architectural inspector and quality inspector, retaining the requirements for such roles which have to remain unchanged to the entire life span of the project from initialization stage to the closure.

Clerk of works is a sequestered profession on site who acts and works independently for the best interests of the employer. Clerk of Works must ensure maintenance of the quality and quantity of both materials and workmanship are fully maintained all over the project life cycle. In that regards, clerk of Works must at all time, be absolutely impartial and independent in professional decisions and judgments. Clerk of Works, by virtue of the quality role, shall be employed by the Employer.

The recommended professional qualification of the Clerk of Works might be an Architect, an Engineer or Quantity Surveyor having on behalf of the employer. Role of the Clerk of Works is not to judge it's rather to guide the performance of the project and avail all reports regarding all relevant occurrences at the site.

Clerks of Works should be ready to work at any project so long as the Employer is desired for the recommended projects and must be a person with professional skills background in Construction Practices, well knowledgeable with a minimum of **Five** Years' experience in Managing Project of similar nature in hospital infrastructures and multi-storey buildings.

Clerk of Works shall fully be stationed on site at the entire period of the Project. Clerk of Works must be vigilant over all materials, labor and plants for the works while undertaking inspections of a large range of technical aspects of the work.

Clerk of Works shall have an open opportunity to be extended of the contracted assignment depending on the effectiveness and efficient of the performance records with successful projects worked at Manyara Regional Referral Hospital with a notifying concern of termination of the contract whenever the Employer becomes unsatisfied with the Service of the Clerk of Works. Upon termination, there shall be an establishment of the rights of both parties; the party at default shall reimburse the other party for any loss or injury incurred due to such termination.

2.0 Roles and Responsibilities-Clerk of Works

Clerk of Works shall be responsible with all professional requirements relevant to expedite for the project execution. Characteristic, Duties and Responsibilities of the Clerk of Works are given as to;

- i. Coordinate, monitor and inspect work of construction of the contractor for assigned projects on behalf of the Employer.
- ii. Review and guide on the contract documents, architectural drawings and specifications in order to maintain familiarity with assigned projects and insure construction contractor's full understanding of documents (Assists contractors for the works in interpreting construction drawings and inform Consultants in case of on any discrepancies)
- iii. Review contractor shop drawings and provide comments on conformance/ non-conformance to architect.
- iv. Act as liaison between architect and contractor. Ensures each works executed at site gets approval/disapproval prior to next stage, and report to Consultants of all rejected works/materials.
- v. Conduct on-site observation and spot-checks of work in progress.
- vi. Ensure contract compliance by the contractor, such as conducting tests specified in contract and installing materials/equipment as specified in contract, and report deficiencies to project manager, architect and contractor (making sure that work is carried out to the employer's standards, specification, correct materials, workmanship and schedule)
- vii. Provide reports on all on-site matters, including third-party inspections, progress, safety concerns, and causes for delay.
- viii. Maintain job-site files, documents, reports and daily log; prepare daily reports for Consultants and architect as required.
- ix. Attend all job-site meetings as employer representative or in conjunction with project manager.

- x. Receive, record, present for architect approval, and maintain custody of samples submitted by construction contract.
- xi. Review requests for progress payments submitted by construction contractor and forward with recommendations to architect.
- xii. Perform related duties as assigned.
- xiii. Produce monthly progress report to be submitted to project manager three days before site meetings

3.0 Appointment and contract of Clerk of Works

- 3.1** The clerk of works is appointed and contracted by the Employer and shall be responsible to Consultants (Project Manager/Architect/Engineer) or to any professional representative of the Employer. The Clerk of works shall report to Consultants (Project Manager/Architect/Engineer) or to any professional representative of the Employer.
- 3.2** Clerk of Works shall at all times of the engagement work under and report to the employer and will at all times, work in collaboration with RAS Office, Mol, Consultant, Contractor's personnel and any other person pertinent to the given project for the best interest of the project
- 3.3** The employer shall not at any time tolerate any misconduct done by the Clerk of Works that shall or have signs to harm the employer and/or the project itself.

4.0 Terms of Engagement

- 4.1** The engagement to this assignment is made for a period of **6 (Six) months** commencing from the date of signing of the contract or engagement letter from the Employer and may be extended for a further period or periods with the agreement of both parties.
- 4.2** The term of the engagement shall not include any period of leave to the Clerk of Works in respect of his service under this agreement.

5.0 Place of Employment

The place of employment is in within Tanzanian Mainland.

6.0 Principal Responsibilities

- 6.1 The duties of the Clerk of Works shall be as specified in paragraph 2.0 above and shall include any other duties appropriate to his qualifications and experience which the Employer may call upon him to perform from time to time.
- 6.2 During the continuance of his employment under this Agreement the Clerk of Works shall devote his whole time to his duties as Clerk of Works and shall do all that which is within his abilities to extend, increase and further the business of the employer.

7.0 Remuneration

- 7.1 The Clerk of Works' remuneration shall be (*will be discussed during negotiations*) payable per month and is payable into the Clerk of Works' account of his choice to be advised.

8.0 Service and Secrecy

- 8.1 The Clerk of Works shall not without the consent of the Employer divulge any matters concerning the Employer's business which come to his knowledge in the course of or incidental to his being employed by the Employer except so far as may be necessary and proper for the conduct of the Employers business. The Clerk of Works pledges himself to absolute secrecy on all such matters.
- 8.2 The Clerk of Works shall hand over at once on termination of this Agreement without restriction, exception or reservation all documents, notes, papers and/or records which are held by him bearing directly or indirectly on the Employer's business in its widest sense.
- 8.3 In the event of non-observance or contravention by the Clerk of Works of the provisions of sub paragraphs 6.1 and 6.2 of this paragraph the Clerk of Works shall be personally liable of any damage the employer may suffer or have suffered as the result of the Clerk of Works' non-observance or contravention of the said provisions.

9.0 Instructions

- 9.1 The Clerk of Works' engagement shall be subject to Laws, regulations and instructions relating to employment in the Government.
- 9.2 The Clerk of Works pledges himself unconditionally to follow all lawful instructions regarding the business of the Employer in its widest sense given to him generally and either by the Employer or by anyone else that the employer has placed or may place in a position of authority

over him the use any power delegated to him only within the limits of such general and specified instructions.

10.0 Logistic Support

The employer shall provide all the necessary logistic support required to enable The Clerk of Works to carry out his duties efficiently.

11.0 Transport and Travelling

11.1 When traveling on duty the Employer shall not provide the Clerk of Works with a means of transportation. In addition, the Clerk of Works will not be eligible for per diem allowance at the government rates.

12.0 Leave

12.1 The Clerk of Works is not entitled during the duration of this contract period to have any annual leave.

12.2 If the Clerk of Works satisfactorily completes the full term of his service and is not renewing the Agreement for further service, or is terminated in accordance with the provisions of clause 11 or clause 12, he will not be granted any entitlement including terminal payment.

13.0 Dismissal

If the Clerk of Works shall at any time after formally being engaged into this assignment neglect or refuse, or from any cause other than ill health not caused by his own misconduct become unable to perform any of his duties or to comply with any lawful communication or shall properly disclose any information in respect of the affairs of the issues of the Employer to any unauthorized person, or shall in any manner misconduct himself, the Employer may dismiss the Clerk of Works forthwith and thereupon all rights and advantage reserved to him by his/her Agreement shall all cease thereof.

14.0 Termination of Engagement

14.1 The Employer may, at any time, terminate the engagement of the Clerk of Works giving him/her a one month's notice in writing or on paying him/her one month's salary in lieu of notice.

14.2 The Clerk of Works may, at any time after the expiration of three months from the commencement of service terminate his/her

engagement on giving to the Employer one month notice in writing, or on paying to the employer a one-month salary in lieu of notice.

14.3 If the Clerk of Works terminates his engagement otherwise than in accordance with this Agreement, he shall be liable to pay to the Employer as liquidated damages one month salary. The employer may, in his discretion waive his rights to any payment under this clause.

15.0 Jurisdiction

The engagement shall be construed in its meaning and effect in accordance with the laws of the United Republic of Tanzania.

SIGNED FOR AND ON BEHALF
OF THE CLIENT:

In the presence of



Signature

(Name) KATERINE MAGONI

(Occupation) MEDICAL OFFICER IN CHARGE





Signature

(Name) ALISA ELIAS

(Occupation) HEALTH SECRETARY

CONSULTANT:



Signature

(Name) ARON WILSON TESHA

(Occupation) Ag. RM

(Address) P.O. Box 368, Babati - Manyara

In the presence of



Signature

(Name) Dr. Fuko Mwasu

(Occupation) 

(Address) 368, BABATI MNR

