

**REPUBLIC OF KENYA**  
**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**  
**APPLICATION NO. 49/2022 OF 13<sup>TH</sup> JUNE 2022**

**BETWEEN**

**MINET KENYA INSURANCE BROKERS LIMITED ..... APPLICANT**

**AND**

**ACCOUNTING OFFICER**

**COUNTY GOVERNMENT OF TANA RIVER..... 1<sup>ST</sup> RESPONDENT**

**THE COUNTY GOVERNMENT OF TANA RIVER..... 2<sup>ND</sup> RESPONDENT**

**M/S SCORELINE INSURANCE**

**BROKERS LIMITED ..... INTERESTED PARTY**

Review against the decision of the Accounting Officer of the County Government of Tana River with respect to Tender Number TRCG/OT/ADM/49/2021-2022 for provision of Medical Insurance Cover to the County Government of Tana River's County Staff.

**BOARD MEMBERS PRESENT**

- |                         |              |
|-------------------------|--------------|
| 1. Ms.Faith Waigwa      | -Chairperson |
| 2. Mr. Jackson Awele    | -Member      |
| 3. MrsIrene Kashindi    | -Member      |
| 4. Mr. Steven Oundo OGW | -Member      |
| 5. Dr Paul Jilani       | -Member      |

**IN ATTENDANCE**

Mr Philip Okumu

-Acting Board Secretary

## **BACKGROUND OF THE AWARD**

### **The Tendering Process**

The County Government of Tana River, the 2<sup>nd</sup> Respondent herein (hereinafter after referred to as "the Procuring Entity") invited sealed tenders from eligible tenderers with respect to Tender Number TRCG/OT/ADM/49/2021-2022 for provision of Medical Insurance Cover for the Procuring Entity's County Staff (hereinafter referred to as the 'subject tender') on 25<sup>th</sup> April, 2022 via the Standard Newspaper. The subject tender was also uploaded on the Procuring Entity's website, [www.tanarivercounty.go.ke](http://www.tanarivercounty.go.ke). The subject tender's closing date was set at 4<sup>th</sup> May, 2022.

On 25<sup>th</sup> April, 2022, the Procuring Entity placed a further advertisement on the same newspaper informing the public and all interested tenderers of further changes that had been made on the initial advertisement and tender document. The change made was with regard to the objective and extension of the subject tender closing date to 13<sup>th</sup> May, 2022.

### **Submission of Tender and Tender Opening**

The following seven (7) firms submitted their tenders on the submission deadline:

S/No.	Name of Tenderer

1.	Amana Insurance Brokers Ltd
2.	Scoreline Insurance Brokers Limited
3.	Paladin Insurance Brokers Limited
4.	MinetKenya Insurance Brokers Limited
5.	Zamara Risk and Insurance Company Limited
6.	Trident Insurance Company Limited
7.	Jubilee Health Insurance Limited

The tenders were opened on 13<sup>th</sup> May 2022.

## **Evaluation**

The Chief Officer of the Procuring Entity appointed a Tender Evaluation Committee to undertake evaluation in the following stages:

- i. Preliminary Evaluation;
- ii. Tender Evaluation; and
- iii. Financial Evaluation.

### **i. Preliminary Evaluation**

The Evaluation Committee were required to subject the tenders to Preliminary Evaluation to determine their "responsiveness" or "non-responsiveness" to the mandatory requirements as outlined by the blank tender document issued to prospective tenderers by the Procuring Entity (hereinafter referred to as the 'Tender Document'). Two (2) tenders

submitted by tenderer number "2" and "7", were found to be responsive therefore, proceeded to the Technical Evaluation Stage.

## ii. Technical Evaluation

The two (2) tenders were thereafter subjected to Technical Evaluation based on the criteria outlined in the Tender Document at a scale of 0 to 100 with a pass mark being 80%. The Interested Party's tender scored 85.3 points.

## iii. Financial evaluation

The Evaluation Committee thereafter subjected the two (2) tenders to Financial Evaluation by ranking them as per the tender sums quoted which are outlined below.

Bidder No.	Name of Bidder	Sum Quoted (Kshs.)	Rank
7	Jubilee Health Insurance Ltd	187,563,024.00	2
2	Scoreline Insurance Brokers Ltd	162,041,278.00	1

## Evaluation Committee's Recommendation

The Evaluation Committee recommended the lowest responsive evaluated tenderer, **M/s Scoreline Insurance Brokers Limited**, to be awarded the subject tender at their quoted sum of **Kshs. 162,041,278.00 (One**

**Hundred and Sixty-Two Million, Fourty One Thousand, Two Hundred and Seventy-Eight Kenya Shillings )only.**

### **Professional Opinion**

By a Professional Opinion dated 27<sup>th</sup> May 2022, the Procuring Entity's Principal-Supply Chain Management Officer concurred with the Recommendation of the Evaluation Committee, citing that the process and criteria was set in accordance with Section 80 (3) of the Public Procurement and Asset Disposal Act, 2015 (hereinafter referred to as "the Act") and that the award was within the prevailing matrix.

### **Letters of Notification**

Vide letters dated 30<sup>th</sup> May 2022, the Chief Officer of the Procuring Entity notified the tenderers of the outcome of their respective tenders.

### **REQUEST FOR REVIEW**

M/s Minet Kenya Insurance Brokers Limited (hereinafter referred to as "the Applicant") lodged a Request for Review dated and filed on 13<sup>th</sup> June 2022 together with a Statement in Support of the Request for Review signed by Edwin Macharia of even date, a Supplementary Statement dated 27<sup>th</sup> June 2022 and a further Supplementary Statement dated and filed on 29<sup>th</sup> June 2022, through the firm of Chepkuto Advocates seeking the following prayers: -

- I. A declaration that the Procuring Entity breached the provisions of Article 227(1) of the Constitution and Section 79(1) of the Public Procurement and Asset Disposal Act;***
- II. The decision of the Procuring Entity to award the Tender to the Interested Party be annulled and set aside;***
- III. The Board be pleased to order a re-evaluation of Tender No TRCG/OT/ADM/49/2021-2022 FOR THE PROVISION OF MEDICAL INSURANCE COVER FOR COUNTY STAFF, and award the tender to the Applicant who strongly believes it has the lowest competitive bid;***
- IV. The Board be pleased to annul any contract that may have been entered into by the Respondents and the Interested Party before the lapse of the 14-day period within which tenderers may seek administrative review;***
- V. The Board be pleased to stop any implementation of any such contract entered into between the Respondents and Interested Party;***
- VI. The Respondents be compelled to pay the costs to the Applicant arising from/and incidental to this Application;***
- VII. The Board to make such and further orders as it may deem fit and appropriate in ensuring that the ends of justice are fully met in the circumstances of this Request for Review.***

In a Notification of Appeal and letter dated 13<sup>th</sup> June 2022, the Acting Board Secretary of the Public Procurement Administrative Review Board (hereinafter referred to as the "Board") notified the Respondents of the filing of the Request for Review and the suspension of the procurement proceedings for the subject tender, while forwarding to the Respondents a copy of the Request for Review together with the Board's Circular No. 02/20 dated 24<sup>th</sup> March 2020, detailing administrative and contingency measures to mitigate the spread of COVID-19. Further, the Respondents were requested to submit a response to the Request for Review together with confidential documents concerning the subject tender within five days from 13<sup>th</sup> June 2022.

The Respondents opposed the Request for Review vide an Affidavit in Response dated and filed on 22<sup>nd</sup> June 2022 signed by the Chief Officer, Finance and Economic Planning and the Acting Chief Officer, Public Service Management, Administration & ICT, through the firm of Ann Kowido & Associates. The Respondents opposed the Request for Review stating that the Procuring Entity was guided by the Tender Document and Section 86(1) (b) of the Act in awarding the tender and that the Procuring Entity followed the procedures and criteria set out in the Tender Document. Further, the Respondents urged the Board to dismiss the Request for Review with costs for the reasons that it would cause delays to the County Staff who have no medical care and that the funds for this project had already been budgeted for the financial year.

Vide letters dated 23<sup>rd</sup> June 2022, the Acting Board Secretary notified all the tenderers in the subject tender, via their respective addresses as provided by the Respondents, of the existence of the Request for Review while forwarding to the tenderers a copy of the Request for Review together with the Board's Circular No. 02/2020 dated 24<sup>th</sup> March 2020. Further, all tenderers were invited to submit to the Board any information and arguments about the subject tender within three days from 23<sup>rd</sup> June 2022.

M/s Scoreline Insurance Brokers Limited (hereinafter referred to as the "Interested Party") through the firm of Sagana, Biriq & Co. Advocates filed its Replying Affidavit dated 22<sup>nd</sup> June 2022 sworn by Sadam Maalim Hussein on even date. It urged the Board to dismiss the Request for Review for the reasons that: The Applicant's tender was non-responsive due to submission of an unverified ISO Certification, it had not met the mandatory requirements in the Tender Document, there was no breach cited by the Applicant to warrant review and that the prayers in the Request for Review lacked merit.

Pursuant to the Board's Circular No. 02/2020 dated 24<sup>th</sup> March 2020, detailing an administrative and contingency management plan to mitigate the effects of the COVID-19 pandemic, the Board dispensed with physical hearings and directed that all Request for Review applications be

canvassed by way of written submissions. Clause 1 at page 2 of the said Circular further specified that pleadings and documents would be deemed as properly filed if they bear the official stamp of the Board.

On 28<sup>th</sup> June 2022, the Applicant filed its written submissions dated 27<sup>th</sup> June 2022 together with its List of Authorities dated on even date . the Applicant filed its written submissions dated. On 1<sup>st</sup> July 2022, the Respondents' filed their written submissions together with their list of authorities both dated 30<sup>th</sup> June 2022.

## **BOARD'S DECISION**

The Board has considered each party's case, the pleadings and the written submissions filed before it, including the confidential documents submitted by the Respondents pursuant to Section 67(3) (e) of the Act and finds the following issues call for determination;

- I. Whether the Procuring Entity properly disqualified the Applicant's tender at the preliminary stage of evaluation?***
- II. What are the appropriate orders to grant in the circumstances?***

### **Issue 1. Disqualification of the Applicant's tender**

The Applicant alleges that the Procuring Entity is in breach of the Act as read with Article 227(1) of the Constitution of Kenya in that it:-

- (i) Unlawfully disqualified the Applicant's tender on account of allegedly attaching an unverified ISO Certificate from AAR

Insurance Kenya Limited (the Applicant's preferred underwriter), Certificate Number Q072021874543 despite the same being a valid certificate provided in accordance with the mandatory requirement MR19 under Instructions to Tenders (ITT) 35 (c) of the Tender Document.

- (ii) Failed to adhere to Section 79(1) of the Act which provides that a tender is responsive if it conforms to all the eligibility and other mandatory requirements in the Tender Document.
- (iii) Failed to take into account the fact that the Applicant had fully complied with the eligibility criteria and mandatory requirements under the Tender Document as provided under Section 79(1) of the Act and submitted a valid tender.
- (iv) Failed to promote transparency, fairness and integrity of the procurement process by unlawfully disqualifying the Applicant's tender under the preliminary evaluation stage of the Tender Document despite it having met all the requirements therein.
- (v) Failed to award the subject tender to the Applicant as required by law in view of the responsiveness of the Applicant's tender.

In its Supporting Affidavit sworn by its General Manager, dated 13<sup>th</sup> June 2022, the Applicant avers that under ITT 35 (c) of the Tender Document on the mandatory requirements for broker's underwriter of choice, S/NO MR19 provided that the underwriter must provide proof of current ISO Certification and attach a copy of the certificate.

The Applicant further avers that on 10<sup>th</sup> June 2022, vide email, they received a letter of notification of regret from the Procuring Entity dated 30<sup>th</sup> May 2022, informing it that it was not the successful tenderer which for reasons that it;

*"ATTACHED UNVERIFIED ISO CERTIFICATE WITH CERTIFICATE NO. Q072021874543 FROM AAR INSURANCE SERVICES AFTER MAILING FROM THE DIFFERENT BODIES OF CERTIFICATION AND CONFIRMED THE RESPONSES".*

The Applicant states that it attached, at page 639 of its tender, AAR Insurance Services Limited's valid ISO Certificate, Certificate Number; **Q072021874543** from the Syndicate of International System Certifications.

The Applicant further avers that to debunk on the allegations by the Procuring Entity on attachment of an unverified ISO certificate, they, together with their advocates proceeded to conduct a verification exercise at the Syndicate of International System Certification's website, the organization that issued the ISO certificate. The search however, generated a "no data found" response, the Applicant avers.

The Applicant further states that their advocates further sought verification from the organization vide email, indicating the unsuccessful attempts to conduct a verification exercise through their website and sought verification of the ISO Certificate in question.

The Applicant added that the Syndicate of International System Certifications reverted on the verification status and stated that the Certificate Number Q072021874543 had been issued by them and is currently active and attached the verification status.

The Applicant thus states that the verification process conducted is conclusive evidence that the Applicant's underwriter, AAR Insurance Services Limited possesses a valid ISO Certificate, Certificate Number; Q072021874543 from the Syndicate of International System Certifications.

The Applicant states that consequently, it met the mandatory requirement MR19 which provided that it's underwriter must provide proof of current ISO Certification under ITT 35 (c) of the Tender Document.

In their Replying Affidavit, sworn by the Chief Officer, Finance and Economic Planning and the Acting Chief officer, Public Service Management, Administration & ICT, Tana River County Government, the Respondents contend that at the preliminary evaluation stage of the procurement process the 2<sup>nd</sup> Respondent sought to verify the authenticity of one of the mandatory documents sought; the ISO 9001: 2015 Certification for the tenderer's Underwriter of choice.

The Respondents further submit that all the other tenderers failed to provide this requirement for the Underwriters save for Jubilee Health

Insurance Limited (*preferred underwriter for Jubilee Health Insurance Limited*), Madison Insurance (*preferred underwriter for Scoreline Insurance Brokers Limited*) and AAR Insurance Kenya Limited (*preferred underwriter for Minet Kenya Insurance Brokers Limited*).

The Respondents state that the 2<sup>nd</sup> Respondent sought from Kenya Accreditation Service (KENAS), a State Corporation established by the Kenya Accreditation Service Act, 2019, mandated to carry out assessment and accreditation of organizations that carry out conformity of assessment service, the details of the certification bodies accredited to carry out Management Systems Certifications in Kenya.

The Respondents further contend that KENAS confirmed that it had only accredited four (4) certification bodies:

- i. Kenya Bureau of Standards
- ii. SGS (K) Limited
- iii. Bureau Veritas Certification Kenya Limited
- iv. Pharm Access

The Respondents further submit that Syndicate of International System Certifications (SIS), a Company accredited by an IAF signatory called International Accreditation Service (IAS) wrote an email confirming that the Applicant had ISO Certificate that had emanated from them.

The Respondents added that the following glaring issues were however, evident: -

- i. The ISO Certificate that was submitted by the Applicant (page 639 of the tender application; Certificate Number Q072021874543) was different from the one forwarded by SIS Certification (Certificate Number Q072020874543).
- ii. The 2<sup>nd</sup> Respondent carried out a Certificate Verification with the SIS portal on the Applicant's Certificate Number **Q072021874543** but the feedback was, DATA NOT FOUND, thus not in their system and not verifiable.

The Respondents further aver that under Section II, Part E, ITT 35 (c) of the Tender document on Evaluation and Comparison of Tender documents, the tender is explicit that any tenderer who fails to meet any of the mandatory requirements shall be disqualified from any further evaluation.

They further submit that premised on the above it was only two (2) tenderers who had passed the Preliminary stage on the mandatory eligibility criteria; the Interested Party and Jubilee Insurance Company Limited. This meant, according to the Respondents, that only these two tenderers could proceed to the Technical and if found responsive, to the Financial Evaluation Stage.

The Respondents contend that the Evaluation Committee recommended the Interested Party herein to be considered for the Award with a tender sum of Kenya Shillings One Hundred and Sixty-Two Million Forty-One Thousand Two Hundred and Seventy-Eight (Kshs. 162,041,278.00).

The Respondents state that the above decision was reached based on the above stated preliminary, technical and financial analysis together with the observations and that the 2<sup>nd</sup> Respondent's Evaluation Committee recommended that the Interested Party was the lowest responsive evaluated tenderer.

By a Supplementary Affidavit sworn on 27<sup>th</sup> June 2022, the Applicant in response to the Respondents' response stated, *inter alia* that:

- a. Contrary to the provisions of Section 83 of the Act which provides that an evaluation committee may, after tender evaluation, but prior to the award of the tender conduct due diligence, the 2<sup>nd</sup> Respondent undertook due diligence by seeking to verify the authenticity of the tenderers underwriters of choice ISO 9001:2015 Certificates provided at the preliminary evaluation stage.
- b. The same is unprocedural and contrary to the express provisions of Section 83 of the Act as aforementioned as due diligence is only conducted after completion of the evaluation process and on the candidate that has been determined to have submitted the

lowest evaluated tender, an exercise done with the aim to verify information provided by such a tenderer before award of a tender to it.

- c. S/NO MR19 under ITT 35(c) on the mandatory requirements for broker's underwriter of choice did not require tenderers to provide ISO 9001:2015 Certification specifically from a body accredited by the Kenya Accreditation Service (KENAS).
- d. Further, the said Kenya Accreditation Service (KENAS), in the annexure HB-5 attached in the Respondents Replying Affidavit confirmed that the Syndicate of International System Certifications (SIS) which issued the Applicant's underwriter's, AAR Insurance Service Limited's ISO 9001:2015 Certificate, is accredited by International Accreditation Service (IAS), which is a signatory to the International Accreditation Forum (IAF).
- e. Furthermore, KENAS is also a signatory to the said International Accreditation Forum (IAF), where by virtue of being a part of the IAF Multilateral Recognition Agreement (MLA), they recognize the equivalence of other signatories' accreditations (including IAS) to their own.

The Applicant invited this Board to visit a link it provided to examine the listed members of the International Accreditation Forum.

By a Supplementary Further Affidavit sworn on 29<sup>th</sup> June 2022, the Applicant in further response to the Respondents' response stated, *inter alia* that: -

- a. The "DATA NOT FOUND" feedback from the SIS Certifications portal did not imply that the Certificate Number **Q072021874543** was not in their system and neither did it imply that the same was not issued by SIS Certifications.
- b. The Respondents deponed in their affidavit sworn by Hero Bwanamaka on 22<sup>nd</sup> June 2022 under paragraph 12 that it sought verification of the Applicant's underwriter's ISO Certificate from Syndicate of International System Certification, where the issuer forwarded the Certificate Number **Q072020874543**, whilst the Applicant had submitted the ISO Certificate Number **Q072021874543**.
- c. The Respondents ought to have sought further clarification from SIS Certifications on the discrepancy in the Certificate Numbers, which could have been an error on the part of the issuer of the certificate, an error which cannot be apportioned to the Applicant.
- d. Upon the Applicant seeking clarifications through its counsel, the issuing body indicated that both certificates were valid and that the only difference between the Certificate number **Q0720208874543** sent to the Respondents which expires in

2023 and the Certificate number **Q0720218874543** submitted by the Applicant is that the Certificate number **Q0720208874543** expiring in 2023 is the latest certificate issued after surveillance was carried out and the new certificate was issued with the same number and a continuing date given. This was by an email dated 28<sup>th</sup> June 2022 from SIS Certifications, exhibited as "EM2".

- e. The Applicant's advocates further sought clarification on the discrepancy between the numbers in the Certificate as SIS Certifications confirmed that the new certificate issued ought to have the same number as the preceding certificate, and whether the number **Q0720208874543** on the latest Certificate issued, expiring in 2023, was an inadvertent typing error on their part with respect to the numbers.
- f. In response, the issuer of the certificate confirmed that it was a typing error on their part, confirming that the NEW ISO Certificate Number **Q0720208874543** sent to the Respondents upon seeking verification, ought to have borne the number **Q0720218874543** similar to the ISO Certificate submitted by the Applicant. This was by an email dated 29<sup>th</sup> June 2022 from SIS Certifications, exhibited as "EM4."
- g. The foregoing cemented by the annexure "**EM-8**" in the Applicant's supporting affidavit to the review application, where

SIS Certifications verified that it issued the Certificate number **Q0720218874543** and attached the verification status, which, other than the typographical error in the number, bears similar details as the Certificate sent to the Respondents, being the latest certificate issued as confirmed by SIS Certifications.

The Board notes that the Procuring Entity disqualified the Applicant's tender at the preliminary evaluation stage on the basis of submission of unverified ISO Certificate of the Applicant's preferred underwriter. As noted above, the Respondent indicated that it sought verification from three bodies, namely Kenya Accreditation Service (KENAS), Bureau Veritas Certification Kenya Limited and Syndicate of International System Certifications (SIS). This begs the question as to whether this verification at the preliminary evaluation stage was proper to warrant the disqualification of the Applicant's tender? The Applicant contends that this verification amount to conducting due diligence at the preliminary stage of evaluation, contrary to Section 83 of the Act.

Due diligence is provided for under Section 83 (1) of the Act which states as follows: -

**"Post-qualification**

- (1) An evaluation committee may, after tender evaluation, but prior to the award of the tender, conduct due diligence and present the report in writing to confirm and verify the qualifications***

***of the tenderer who submitted the lowest evaluated responsive tender to be awarded the contract in accordance with this Act.”***

As is clear from the foregoing, due diligence should be undertaken after tender evaluation, a tenderer is deemed to be the lowest evaluated, but before tender award. The verification conducted by the Procuring Entity of the ISO certification was akin to a due diligence exercise. This was done at the preliminary evaluation stage on not only the Applicant, but other tenderers. This was improper.

Section 80(2) of the Act requires an Evaluation Committee to evaluate tenders using the procedures and criteria set out in the Tender Document and nothing more. The Board notes that the Tender Document provides at Clause ITT 35(c) of Particulars of Appendix to Instructions to Tenders, of Section II – Tender Data Sheet: Mandatory Requirement No. MR19 as follows: -

*"ITT 35 Evaluation Criteria*

*The following Evaluation Criteria Shall Apply;*

***Preliminary Evaluation***

.....

.....

*c) Mandatory requirements for the broker's underwriter of choice: Submit the copies or letters of the following documents to be certified by the commissioner of oaths;*

<b>S/NO</b>	<b>REQUIREMENTS</b>	<b>Yes/N</b>
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		<b>0</b>
<i>MR1</i>	<i>Provide a certified copy of incorporation/registration certificate (Must have been in existence for at least ten (10) years</i>	
.....	.....	
.....	.....	
<b>MR19</b>	<b>Must provide proof of current ISO certification – attach copy of certificate</b>	
.....	.....	

***NB: A tenderer who fails to meet any of the above mandatory requirements shall be disqualified from further evaluation."***

Given the above, the mandatory requirement was submission of a "*current ISO certification*" which to that extent, the Applicant met. The verification of the '*current ISO certification*' was not a criteria for evaluation at the Preliminary Evaluation stage. All that the Evaluation Committee needed to confirm was whether the Applicant submitted a current ISO certification on face value. The verification of such certification would only be conducted after tender evaluation, if the Applicant were to emerge the lowest evaluated responsive tenderer during due diligence exercise.

Based on the foregoing, the Board concludes that the Procuring Entity erred in disqualifying the Applicant's tender at the preliminary evaluation stage.

Save to note that the Procuring Entity and the Interested Party have not controverted the Applicant's averments and the SIS Certifications averments to the effect that the discrepancy in the number in the ISO Certificate in question, the Board will not dwell much on the issue given the above findings. Accordingly, the verification of the current ISO certification would become a relevant and live issue if the Applicant is deemed the lowest evaluated responsive tenderer, after the Applicant is evaluated at the Technical Evaluation stage, if responsive, at the Financial Evaluation stage as ordered below in the final orders.

### **Issue 11: Reliefs to be granted**

Given the above findings, the Board deems it necessary that the Applicant's tender be admitted for evaluation at the Technical Evaluation stage and if responsive, to the Financial Evaluation stage.

### **FINAL ORDERS**

In exercise of the powers conferred upon it by section 173 of the Public Procurement and Asset Disposal Act, No. 33 of 2015, the Board makes the following orders in the Request for Review dated 13<sup>th</sup> June 2022: -

- 1. The 1<sup>st</sup> Respondent's Letter of Notification of Award dated 30<sup>th</sup> May 2022 with respect to Tender No. TRCG/OT/ADM/49/2021-2022 for provision of Medical Insurance Cover to the County Government of Tana River's County Staff, issued to the Interested Party be and is hereby cancelled and set aside.**
  
- 2. The 1<sup>st</sup> Respondent's letters dated 30<sup>th</sup> May 2022 with respect to Tender No. TRCG/OT/ADM/49/2021-2022 for provision of Medical Insurance Cover to the County Government of Tana River's County Staff, issued to the Applicant and all other tenderers be and are hereby cancelled and set aside.**
  
- 3. The 1<sup>st</sup> Respondent is hereby ordered to direct the 2<sup>nd</sup> Respondent's Evaluation Committee to admit the Applicant's tender to the Technical Evaluation stage, and conduct a re-evaluation at the Technical Evaluation stage of all tenders that were responsive at the Preliminary Evaluation stage including the Applicant's tender, and if responsive, to conduct a re-evaluation at the Financial Evaluation stage.**
  
- 4. Further to Order 3, the 1<sup>st</sup> Respondent is hereby ordered to ensure that the procurement processes of Tender No. TRCG/OT/ADM/49/2021-2022 for provision of Medical**

**Insurance Cover to the County Government of Tana River's County Staff proceeds to its logical conclusion including the making of an award to the lowest evaluated responsive tenderer whilst taking into account the findings made in this decision within 14 days from the date hereof.**

- 5. Given that the proceedings of the subject tender are not complete, each party will bear its own costs.**

**Dated at Nairobi, this 4<sup>th</sup> Day of July 2022**



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**CHAIRPERSON  
PPARB**



.....

**SECRETARY  
PPARB**