

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

**APPLICATION NO. 12/2026 OF 26<sup>TH</sup> JANUARY 2026**

**BETWEEN**

**DISNEY INSURANCE BROKERS (K) LIMITED ..... APPLICANT**  
**AND**

**KENYA PORTS AUTHORITY ..... 1<sup>ST</sup> RESPONDENT**  
**THE ACCOUNTING OFFICER,**

**KENYA PORTS AUTHORITY ..... 2<sup>ND</sup> RESPONDENT**

Review against the decision of the Accounting Officer, Kenya Ports Authority in relation to Tender No. KPA/005/2025-26/INS for Provision of Insurance Brokerage Services for the Period 1<sup>st</sup> February 2026 to 31<sup>st</sup> January 2029

**BOARD MEMBERS PRESENT**

1. Mrs. Njeri Onyango, FCI Arb, SC - Panel Chairperson
2. QS Hussein Were - Member
3. Ms. Jessica M'mbetsa - Member

**IN ATTENDANCE**

1. Mr. Robert Mwangi Holding brief for Board Secretary

2. Ms. Evelyn Weru

Secretariat

## **PRESENT BY INVITATION**

### **APPLICANT**

### **DISNEY INSURANCE BROKERS (K) LIMITED**

1. Mr. Oketch - Advocate, Matheka Oketch & Company Advocates
2. Mr. Ayisi - Advocate
3. Ann Ngugi - General Manager

### **RESPONDENTS**

### **KENYA PORTS AUTHORITY & THE ACCOUNTING OFFICER, KENYA PORTS AUTHORITY**

1. Mr. Makori Advocate, MM & Mabeya Company Advocates
2. Mr. Stephen Kyandih - KPA Representative
3. George Ochieng - KPA Representative
4. Daniel Amuyunzu - KPA Representative

### **OTHERS**

### **GOLDFIELD INSURANCE BROKERS LTD**

Mr. Mulaku - Advocate, Koome Muketha Advocates

### **SCORELINE INSURANCE BROKERS LIMITED**

1. Ms. Desma Nungo - Advocate, NOW Advocates LLP
2. Ms. Chantal Atieno - Advocate, NOW Advocates LLP

3. Ms. Maina

- Advocate, NOW Advocates LLP

### **ZAMARA RISK & INSURANCE BROKERS LTD**

Ms. Wambui Ndung'u                      Representative

### **ACENTRIA INSURANCE BROKERS**

Noah Ruto                                      Representative

## **BACKGROUND OF THE DECISION**

### **The Tendering Process**

1. The Kenya Ports Authority invited sealed tenders in response to Tender No. KPA/005/2025-26/INS for Provision of Insurance Brokerage Services for the Period 1<sup>st</sup> February 2026 to 31<sup>st</sup> January 2029 (hereinafter referred to as the "subject tender") categorized as follows:

<b><i>CATEGORY</i></b>	<b><i>POLICIES</i></b>
<b><i>Port Package</i></b>	<b><i>Marine Hull, Protection &amp; Indemnity and Port liability, KOT II wet risk.</i></b>
<b><i>Staff policies</i></b>	<b><i>GPA/WIBA, Group Life, D &amp; O liability, GPA Directors, Medical scheme Directors, Medical Scheme Staff, and Travel insurance.</i></b>
<b><i>Asset based and related policies</i></b>	<b><i>Public Liability, Pension Trustees Liability, Hospital Malpractice, Fire &amp; Perils, Political Violence &amp; Sabotage cover, All risks (Electronic), Money, Fidelity Guarantee, G.I.T, Plant/Machinery All Risks, Burglary and Motor Policies.</i></b>

2. Tendering was conducted under open competitive method and the blank tender document for the subject tender issued to tenderers

(hereinafter referred to as the 'Tender Document') was published on 28<sup>th</sup> November 2025 on the Procuring Entity's website [www.kpa.co.ke](http://www.kpa.co.ke). Vide Addendum No. 1 dated 4<sup>th</sup> December 2025 (hereinafter referred to as "Addendum No. 1"), the Procuring Entity issued clarifications pertaining to the subject tender while extending the submission deadline initially scheduled on Wednesday, 10<sup>th</sup> December 2025 at 10.00 a.m. to Thursday, 11<sup>th</sup> December 2025 at 10.00 a.m.

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

3. According to the Tender Opening Minutes which were part of confidential documents furnished to the Public Procurement Administrative Review Board (hereinafter referred to as 'the Board') by the 2<sup>nd</sup> Respondent pursuant to Section 67(3)(e) of the Public Procurement and Asset Disposal Act (hereinafter referred to as 'the Act'), a total of twenty-eight (28) tenders were submitted in response to the subject tender and were recorded as follows:

<b>No.</b>	<b>Bidder</b>
1	Waumini Insurance Brokers
2	Minet Kenya Insurance Brokers
3	Losagi Insurance Brokers
4	Maj Insurance Brokers Britam Limited
5	Amro Insurance Brokers
6	A-Plan Insurance Brokers
7	Karen Direct Insurance Brokers

8	SHIV Insurance Brokers
9	Kenbright Insurance Brokers
10	Macly Insurance Brokers
11	Plan & Plan Insurance Brokers
12	Disney Insurance Brokers
13	Scoreline Insurance Brokers
14	Laser Insurance Brokers
15	Four M Insurance Brokers
16	Peace of Mind Insurance Brokers
17	Liason Group
18	Acentria Insurance Brokers
19	Emaar Insurance Brokers
20	Miran Insurance Brokers
21	Utmost Insurance Brokers
22	Canopy Insurance Brokers
23	Pelican Insurance Brokers
24	Sedgwick Insurance Brokers
25	Goldfield
26	Zamara
27	Stansfield Insurance Broker
28	Transnep Insurance Brokers

## **Evaluation of Tenders**

4. A Tender Evaluation Committee (hereinafter referred to as the "Evaluation Committee") appointed by the 2<sup>nd</sup> Respondent undertook evaluation of the twenty-eight (28) tenders as captured in the Evaluation Report for the subject tender submitted to the Board as part of the confidential documents.
  
5. According to the Evaluation Report, the Evaluation Committee sorted the submitted bids into categories/groups of Insurance Brokers and Insurance Companies (Underwriters) as listed below:

**A) Insurance Brokers:**

- 1) M/s Waumini Insurance Brokers**
- 2) M/s Minet (K) Insurance Brokers Ltd**
- 3) M/s Losagi Insurance Brokers**
- 4) M/s Maj Insurance Brokers Ltd**
- 5) M/s Amro Insurance Brokers Ltd**
- 6) M/s A-Plan Insurance Brokers Ltd**
- 7) M/s Karen Direct Insurance Brokers Ltd**
- 8) M/s SHIV Insurance Brokers**
- 9) M/s KenBright Insurance Brokers Ltd**
- 10) M/s Maclly Insurance Brokers Ltd**
- 11) M/s Plan & Place Insurance Brokers Ltd**
- 12) M/s Disney Insurance Brokers Ltd**
- 13) M/s Scoreline Insurance Brokers**
- 14) M/s Laser Insurance Brokers**
- 15) M/s Four M Insurance Brokers Ltd**
- 16) M/s Peace of Mind Insurance Brokers Ltd**
- 17) M/s Liaison Insurance Brokers Ltd**
- 18) M/s Acentria Insurance Brokers Ltd**
- 19) M/s Emaar Insurance Brokers**
- 20) M/s Miran Insurance Brokers Ltd**
- 21) M/s Utmost Insurance Brokers Ltd**
- 22) M/s Canopy Insurance Brokers Ltd**
- 23) M/s Pelican Insurance Brokers Ltd**
- 24) M/s Sedgwick (K) Insurance Brokers Ltd**
- 25) M/s Goldfield Insurance Brokers Ltd**
- 26) M/s Zamara Risk & Insurance Brokers Ltd**

- 27) M/s Stanfield Insurance Brokers**
- 28) M/s Transnep Insurance Brokers**

**B) Insurance Companies (Underwriters)**

- 1) M/s Britam General Insurance Co. (K) Ltd**
- 2) M/s Britam Life Assurance Co. (K) Ltd**
- 3) M/s APA Insurance Ltd**
- 4) M/s APA life Assurance Ltd**
- 5) M/s Old Mutual General Insurance (K) Ltd**
- 6) M/s CIC General Insurance Co. Ltd**
- 7) M/s CIC Life Insurance Ltd**
- 8) M/s Old Mutual Life Assurance (K) Ltd**
- 9) M/s GA Insurance Ltd**
- 10) M/s Mayfair Insurance (K) Ltd**

6. The Evaluation Committee agreed to evaluate the Insurance Brokers as per the requirements set out in the Tender Document before embarking on the Insurance Companies (Underwriters) and adopted the following approach in the evaluation process:

- i. Preliminary evaluation that involved checking the tender submissions for compliance with mandatory requirements as provided under Section III (2) of the tender document.***
- ii. Technical evaluation I and Technical Evaluation Cover II that included:***
  - a) Formulation of the score sheet based on the technical evaluation of the tender document.***
  - b) Perusal of the bidder's tender submissions and awarding of marks by individual evaluators as per the score sheet provided in the tender document.***
  - c) Combining the scores awarded by individual evaluators per bidder and calculating the mean/average score to be awarded as the final score for the bidder.***
- iii. Financial Evaluation***

## **Preliminary Evaluation**

7. The Evaluation Committee was required to examine tenders for responsiveness using the criteria provided under Clause 2 Preliminary examination for Determination of Responsiveness of the Tender Document. Tenderers were required to meet all the mandatory requirements at this stage to proceed to the technical evaluation stage.
  
8. At the end of evaluation at this stage, the Evaluation Committee found as follows:

***Out of Twenty-Eight (28 No.) firms/brokers whose bids were opened, the following nineteen firms satisfied the preliminary evaluation criteria and therefore proceeded to the next stage of detailed technical evaluation I and II:***

- 1. M/s Amro Insurance Brokers**
- 2. M/s A-Plan Insurance Brokers**
- 3. M/s Karen Direct Insurance Brokers**
- 4. M/s SHIV Insurance Brokers**
- 5. M/s Kenbright Insurance Brokers**
- 6. M/s Plan & Place Insurance Brokers**
- 7. M/s Disney Insurance Brokers**
- 8. M/s Scoreline Insurance Brokers**
- 9. M/s Laser Insurance me Brokers**
- 10. M/s Peace of Mind Insurance Brokers**
- 11. M/s Liaison Insurance Brokers Ltd**
- 12. M/s Acentria Insurance Brokers**
- 13. M/s Miran Insurance Brokers**
- 14. M/s Pelican Insurance Brokers**
- 15. M/s Sedgwick Insurance Brokers**
- 16. M/s Goldfield Insurance Brokers Ltd**
- 17. M/s Zamara Risk & Insurance Brokers Ltd**
- 18. M/s Stansfeld Insurance Broker**
- 19. M/s Transnep Insurance Brokers**

## **OBSERVATION**

**The following brokerage firms were found non-responsive since the bidders did not meet the Mandatory Requirements and were disqualified from proceeding to the Technical Evaluation: -**

**1. M/s Waumini Insurance Brokers**

***Provided table of contents with pages not clearly indicating sections and page numbers.***

**2. M/s Losagi Insurance Brokers**

***Did not provide a paid-up capital of at least Kes. 10 million and did not attach share capital returns from Registrar of Companies.***

**3. M/s Minet Kenya Insurance Brokers**

***a. Did not provide/attach table of content page clearly indicating sections and page numbers.***

***b. Provided only one copy of the document.***

**4. M/s Maj Insurance Brokers**

***Provided table of contents with pages not clearly indicating sections and page numbers.***

**5. M/s Maclly Insurance Brokers**

***Provided only one copy of the document.***

**6. M/s Four M Insurance Brokers**

***a. Did not provide/attach table of content's page clearly indicating sections and page numbers.***

***b. Pages of their bid submission from the table of content page were not numbered sequentially as required.***

***c. The document was not firmly bound.***

***d. Copy of the certificate of incorporation was not certified***

***by an advocate of the High of Court of Kenya.***

- e. Copy of the Insurance Regulatory Authority (IRA) Bank Guarantee of Kshs. 3 million not certified by commissioner of oaths.***

***7. M/s Emaar Insurance Brokers***

***The membership certificate from AIBK (Association of insurance brokers of Kenya) but was not certified by AIBK.***

***8. M/s Utmost Insurance Brokers***

- a. Provided table of contents with pages not clearly indicating sections and page numbers***
- b. Provided invalid Tax compliance certificate (TCC)***

***9. M/s Canopy Insurance Brokers***

***Did not provide/attach table of content page clearly indicating sections and page numbers.***

## **Technical Evaluation**

9. At this stage of evaluation, the Evaluation Committee was required to examine tenders using the criteria set out under the Technical Evaluation Criteria of the Tender Document. Bidders were required to attain a pass mark of 80% to be considered for financial evaluation.

10. At the end of evaluation at this stage, the Evaluation Committee found as follows:

***Summary of the award of the marks is as below.***

***Table II***

<b>No.</b>	<b>Name of firm</b>	<b>Technical Evaluation I Score/60 %</b>	<b>Technical Evaluation II Score/40 %</b>	<b>Total Score/100 %</b>	<b>Remarks</b>
<b>1.</b>	<b>Amro Insurance Brokers</b>	<b>46.5</b>	<b>25.0</b>	<b>71.0</b>	<b>Fail</b>
<b>2.</b>	<b>A-Plan Insurance Brokers</b>	<b>56.0</b>	<b>25.0</b>	<b>81.0</b>	<b>Pass</b>
<b>3.</b>	<b>Karen Direct Insurance Brokers</b>	<b>44.5</b>	<b>25.0</b>	<b>69.5</b>	<b>Fail</b>
<b>4.</b>	<b>SHIV Insurance Brokers</b>	<b>55.0</b>	<b>25.0</b>	<b>80.0</b>	<b>Pass</b>
<b>5.</b>	<b>Kenbright Insurance Brokers</b>	<b>54.0</b>	<b>32.5</b>	<b>86.5</b>	<b>Pass</b>
<b>6.</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>52.0</b>	<b>30.0</b>	<b>82.0</b>	<b>Pass</b>
<b>7.</b>	<b>Disney Insurance Brokers</b>	<b>56.0</b>	<b>25.0</b>	<b>81.0</b>	<b>Pass</b>
<b>8.</b>	<b>Scoreline Insurance Brokers</b>	<b>55.0</b>	<b>25.0</b>	<b>80</b>	<b>Pass</b>
<b>9.</b>	<b>Laser Insurance Brokers</b>	<b>50.5</b>	<b>25.0</b>	<b>75.5</b>	<b>Fail</b>
<b>10.</b>	<b>Peace of Mind Insurance Brokers</b>	<b>55.0</b>	<b>25.0</b>	<b>80.0</b>	<b>Pass</b>
<b>11.</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>55.0</b>	<b>37.50</b>	<b>92.50</b>	<b>Pass</b>
<b>12.</b>	<b>Acentria Insurance Brokers</b>	<b>56.0</b>	<b>39.75</b>	<b>95.75</b>	<b>Pass</b>
<b>13.</b>	<b>Miran Insurance Brokers Co. Ltd</b>	<b>48.0</b>	<b>28.0</b>	<b>76.0</b>	<b>Fail</b>

<b>No.</b>	<b>Name of firm</b>	<b>Technical Evaluation I Score/60 %</b>	<b>Technical Evaluation II Score/40 %</b>	<b>Total Score/100 %</b>	<b>Remarks</b>
<b>14.</b>	<b>Pelican Insurance Brokers</b>	<b>52.5</b>	<b>34.5</b>	<b>87.0</b>	<b>Pass</b>
<b>15.</b>	<b>Sedgwick Insurance Brokers</b>	<b>42.0</b>	<b>31.0</b>	<b>73.0</b>	<b>Fail</b>
<b>16.</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>55.5</b>	<b>28.5</b>	<b>84.0</b>	<b>Pass</b>
<b>17.</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	<b>51.0</b>	<b>29.0</b>	<b>80.0</b>	<b>Pass</b>
<b>18.</b>	<b>Stansfeld Insurance Broker</b>	<b>43.0</b>	<b>37.5</b>	<b>80.5</b>	<b>Pass</b>
<b>19.</b>	<b>Transnep Insurance Brokers</b>	<b>54.0</b>	<b>31.0</b>	<b>85.0</b>	<b>Pass</b>

.....

**The required pass mark for brokers/firms to proceed to the next stage of financial evaluation was 80%, From the above list, the following fourteen (14) brokers/firms satisfied this requirement:**

- 1. M/s A-Plan Insurance Brokers**
- 2. M/s SHIV Insurance Brokers**
- 3. M/s Kenbright Insurance Brokers**
- 4. M/s Plan & Place Insurance Brokers**
- 5. M/s Disney Insurance Brokers**
- 6. M/s Scoreline Insurance Brokers**
- 7. M/s Peace of Mind Insurance Brokers**
- 8. M/s Liaison Insurance Brokers Ltd**
- 9. M/s Acentria Insurance Brokers**
- 10. M/s Pelican Insurance Brokers**
- 11. M/s Goldfield Insurance Brokers Ltd**
- 12. M/s Zamara Risk & Insurance Brokers Ltd**
- 13. M/s Stansfeld Insurance Broker**
- 14. M/s Transnep Insurance Brokers**

**However, the following five (5) brokers/firms did not meet the required minimum pass mark of 80% in technical evaluation I & II due to the following reasons:**

**1. M/s Amro Insurance Brokers**

- a. The bidder did not provide documentary evidence of certified paid-up capital CR-12 and a copy of annual returns from the register of companies.**
- b. The bidder did not provide detailed enhanced negotiated clauses for each class approved by the Insurance Company to include negotiated excess, enhanced clauses, exclusions, cover extensions and proposed value for Marine Hull, Port Liability, KOT 11, Plant All Risk, Political Violence and sabotage, Fire Policies and Group Life and proposed value adds for each class mentioned.**

**2. M/s Karen Direct Insurance Brokers**

- a. The bidder did not provide a stamped signed and certified professional indemnity policy.**
- b. The bidder did not indicate that the average annual gross premium was attributed to the total premium in the exclusion of premium from medical cover.**
- c. The bidder had only one client with premium of over Kes. 50 million.**
- d. One of the other Technical Officers did not have seven years' experience.**
- e. The bidder did not provide the Data Security System complainant with ISO/IEC 27001.**
- f. The bidder did not provide copies of the vendor and GDPR certificates.**
- g. The bidder did not provide detailed enhanced negotiated clauses for each class approved by the Insurance Company to include negotiated excess, enhanced clauses, exclusions, cover extensions and proposed value for Marine Hull, Port Liability, KOT 11, Plant All Risk, Political Violence and sabotage, Fire Policies and Group Life and**

***proposed value adds for each class mentioned.***

### **3. M/s Laser Insurance Brokers**

- a. The bidder did not provide detailed enhanced negotiated clauses for each class approved by the Insurance Company to include negotiated excess, enhanced clauses, exclusions, cover extensions and proposed value for Marine Hull, Port Liability, KOT 11, Plant All Risk, Political Violence and sabotage, Fire Policies and Group Life and proposed value adds for each class mentioned.***
- b. The bidder did not provide cover slips executed by the insurers/reinsurers.***
- c. The comprehensive policy wordings for policies have not been endorsed by the insurer nor named the Procurement Entity as the beneficiary.***

### **4. M/s Miran Insurance Brokers Co. Ltd**

- a. The bidder submitted paid-up capital of Kes. 15,000,000.00 thus earning them only one mark out of 9 marks.***
- b. The bidder did not provide detailed enhanced negotiated clauses as per the requirement in the tender document. For instance, the bidder had to provide detailed enhanced clauses from two classes of insurance and subsequently provided enhanced detailed clauses under the chosen classes including signed, stamped reinsurance slips.***

### **5. M/s Sedgwick Insurance Brokers**

- a. The bidder did not provide a copy of the share capital returns from the registrar of companies.***
- b. The bidder did not provide proof of technical capability to handle three claims of minimum 10 million per claim in the last two years 2023, 2024 within one month as per the tender document.***

## **Recommendation of Insurance Brokers**

11. The Evaluation Committee recommended the following fourteen (14) technically qualified brokers, having attained the 80% pass mark, alongside their appointed qualified underwriters to proceed to Financial Evaluation:

- 1. M/s A-Plan Insurance Brokers**
- 2. M/s SHIV Insurance Brokers**
- 3. M/s Kenbright Insurance Brokers**
- 4. M/s Plan & Place Insurance Brokers**
- 5. M/s Disney Insurance Brokers**
- 6. M/s Scoreline Insurance Brokers**
- 7. M/s Peace of Mind Insurance Brokers**
- 8. M/s Liaison Insurance Brokers Ltd**
- 9. M/s Acentria Insurance Brokers**
- 10. M/s Pelican Insurance Brokers**
- 11. M/s Goldfield Insurance Brokers Ltd**
- 12. M/s Zamara Risk & Insurance Brokers Ltd**
- 13. M/s Stansfeld Insurance Broker**
- 14. M/s Transnep Insurance Brokers**

### **Evaluation of Insurance Companies (Underwriters)**

12. According to the Evaluation Report, the Evaluation Committee sorted the underwriter's bid submissions whose brokers had qualified to proceed to Financial Evaluation and subjected the proposed underwriters to preliminary evaluation and found as follows:

**Table III**

<b>No.</b>	<b>Name of Insurance Broker</b>	<b>Name of Insurance Underwriter</b>
<b>1.</b>	<b>A-Plan Insurance Brokers</b>	- <b>APA Insurance Ltd</b> - <b>CIC life Assurance Ltd</b>
<b>2.</b>	<b>SHIV Insurance Brokers</b>	- <b>Britam General Insurance</b>

<b>No.</b>	<b>Name of Insurance Broker</b>	<b>Name of Insurance Underwriter</b>
		<b>Co. Ltd</b>
<b>3.</b>	<b>Kenbright Insurance Brokers</b>	- <b>Old Mutual Life Assurance Ltd</b>
<b>4.</b>	<b>Plan &amp; Place Insurance Brokers</b>	- <b>Britam General Insurance Co. Ltd</b> - <b>CIC General Insurance Co. Ltd</b> - <b>APA Life Assurance Co. Ltd</b>
<b>5.</b>	<b>Disney Insurance Brokers</b>	- <b>APA Life Assurance Co. Ltd</b>
<b>6.</b>	<b>Scoreline Insurance Brokers</b>	- <b>Britam Life Assurance Co. Ltd</b> - <b>GA Insurance Ltd</b>
<b>7.</b>	<b>Peace of Mind Insurance Brokers</b>	- <b>CIC General Insurance Co. Ltd</b> - <b>APA Life Assurance Co. Ltd</b>
<b>8.</b>	<b>Liaison Insurance Brokers Ltd</b>	- <b>Mayfair Insurance Co. Ltd</b>
<b>9.</b>	<b>Acentria Insurance Brokers</b>	- <b>Britam General Insurance Co. Ltd</b> - <b>GA Insurance Ltd</b> - <b>Old Mutual Life Assurance Ltd</b>
<b>10.</b>	<b>Pelican Insurance Brokers</b>	- <b>Britam General Insurance Co. Ltd</b> - <b>APA Life Assurance Co. Ltd</b>
<b>11.</b>	<b>Goldfield Insurance Brokers Ltd</b>	- <b>Old Mutual General Insurance Co. Ltd</b> - <b>CIC General Insurance Co. Ltd</b>
<b>12.</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	- <b>Britam General Insurance Co. Ltd</b> - <b>Old Mutual General Insurance Co. Ltd</b> - <b>Old Mutual Life Assurance Ltd</b>
<b>13.</b>	<b>Stansfeld Insurance Broker</b>	- <b>CIC General Insurance Co. Ltd</b> - <b>APA Insurance Ltd</b>
<b>14.</b>	<b>Transnep Insurance Brokers</b>	- <b>CIC General Insurance Co. Ltd</b> - <b>Britam Life Assurance Co.</b>

<b>No.</b>	<b>Name of Insurance Broker</b>	<b>Name of Insurance Underwriter</b>
		<b>Ltd</b> - <b>GA Insurance Ltd</b> - <b>Mayfair Insurance Co. Ltd</b>

**The proposed underwriters were subjected to preliminary evaluation having been recommended by the respective insurance brokers (Technically qualified insurance brokers). Subsequently, they proceeded to financial evaluation:**

- 1) M/s Britam General Insurance Co. Ltd**
- 2) M/s Old Mutual General Insurance Co. Ltd**
- 3) M/s GA Insurance Ltd**
- 4) M/s APA Insurance Ltd**
- 5) M/s Mayfair Insurance Co. Ltd**
- 6) M/s CIC General Insurance Co. Ltd**
- 7) M/s Old Mutual Life Assurance Ltd**
- 8) M/s Britam Life Assurance Co. Ltd**
- 9) M/s APA Life Assurance Co. Ltd**
- 10) M/s CIC life Assurance Ltd**

**The committee evaluated the above bid submissions for underwriters to establish the responsiveness of the bidders/applicants to the mandatory requirements using the preliminary evaluation criteria for underwriters as indicated in section III (2) of the tender document.**

**The responsiveness/results of the underwriters to the mandatory requirements are attached/appended to this report under Appendix III.**

**The underwriters qualified under the Mandatory requirements and proceeded for detailed technical evaluation that was categorized as either General Insurance or Life insurance companies/lead insurer in the consortium.**

### **TECHNICAL EVALUATION**

**The Committee adopted the Score Sheet for Technical Evaluation for Insurance companies- General insurance and Life Insurance Companies/Lead insurer in the consortium in accordance with the Evaluation Criteria Set Out in Section III (2) of the tender document.**

**The committee then proceeded to evaluate in detail the ten (10) Insurance companies/Underwriters that passed the preliminary stage and awarded marks as summarized below:**

**Table IV**

<b>No.</b>	<b>Name of Insurance Company (Underwriter)</b>	<b>Category</b>	<b>Technical Evaluation- (Total Score/100%)</b>	<b>Remarks</b>
<b>1.</b>	<b>Britam General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>96.0</b>	<b>Pass</b>
<b>2.</b>	<b>Old Mutual Life Assurance Ltd</b>	<b>Life Insurance</b>	<b>64.5</b>	<b>Fail</b>
<b>3.</b>	<b>GA Insurance Ltd</b>	<b>General Insurance</b>	<b>91.0</b>	<b>Pass</b>
<b>4.</b>	<b>APA Insurance Ltd</b>	<b>General Insurance</b>	<b>91.5</b>	<b>Pass</b>
<b>5.</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>91.0</b>	<b>Pass</b>
<b>6.</b>	<b>CIC General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>89.0</b>	<b>Pass</b>
<b>7.</b>	<b>Old Mutual General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>83.5</b>	<b>Pass</b>
<b>8.</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Life Insurance</b>	<b>97.0</b>	<b>Pass</b>
<b>9.</b>	<b>APA Life Assurance Ltd</b>	<b>Life Insurance</b>	<b>72.0</b>	<b>Fail</b>
<b>10.</b>	<b>CIC life Assurance Ltd</b>	<b>Life Insurance</b>	<b>72.0</b>	<b>Fail</b>

**Detailed technical evaluation scores per criteria for General Insurance Underwriters & Life Insurance Underwriters are appended/attached to this report as Appendix IV (a) & (b).**

**Table V**

<b>No.</b>	<b>Name of Insurance Company (Underwriter)</b>	<b>Category</b>	<b>Technical Evaluation– (Total Score/100%)</b>	<b>Remarks</b>
<b>1.</b>	<b>Britam General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>96.0</b>	<b>Pass</b>
<b>2.</b>	<b>GA Insurance Ltd</b>	<b>General Insurance</b>	<b>91.0</b>	<b>Pass</b>
<b>3.</b>	<b>APA Insurance Ltd</b>	<b>General Insurance</b>	<b>91.5</b>	<b>Pass</b>
<b>4.</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>91.0</b>	<b>Pass</b>
<b>5.</b>	<b>CIC General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>89.0</b>	<b>Pass</b>
<b>6.</b>	<b>Old Mutual General Insurance Co. Ltd</b>	<b>General Insurance</b>	<b>83.5</b>	<b>Pass</b>
<b>7.</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Life Insurance</b>	<b>97.0</b>	<b>Pass</b>

**However, the following three (3) underwriters were unsuccessful because they did not meet the required pass mark of 80% at technical evaluation 1 and II due to the following reasons:**

**1. M/s Old Mutual Life Assurance Ltd**

- a. The underwriter did not attach reference letters from Two (2) clients with premiums of over 250 million excluding motor and medical insurance.**
- b. The underwriter did not attach reference letters from Three (3) clients with premiums of over 150 million excluding motor and medical insurance.**
- c. The underwriter did not provide proof that they are compliant with the Data protection Act and that they have enhanced systems in place to safeguard the confidential Kenya Ports Authority data.**

**2. M/s APA Life Assurance Ltd**

- a. The underwriter’s maximum gross premium income was below Kshs. 10 billion.**
- b. The underwriter’s total equity as per 2024 IRA was Kshs. 6 billion.**

***c. The underwriter's years of experience was below 20 years.***

***3. M/s CIC life Assurance Ltd***

***The underwriter's maximum gross premium income was below Kshs. 10 billion.***

**Recommendation of Insurance Companies (Underwriters)**

13. The Evaluation Committee recommended the following seven (7) technically qualified underwriters alongside their appointed brokers to be progress to financial evaluation:

- 1) M/s Britam General Insurance Co. Ltd***
- 2) M/s Old Mutual General Insurance Co. Ltd***
- 3) M/s GA Insurance Ltd***
- 4) M/s APA Insurance Co. Ltd***
- 5) M/s Mayfair Insurance Co. Ltd***
- 6) M/s CIC General Insurance Co. Ltd***
- 7) M/s Britam Life Assurance Co. Ltd***

**Financial Evaluation**

14. At this stage of evaluation, the Evaluation Committee was required to examine tenders using the criteria set out under the Financial Evaluation Award Criteria of the Tender Document.

15. According to the Evaluation Report, the Evaluation Committee while conducting financial evaluation noted the following:

***The committee conducted the financial evaluation of the below fourteen (14) firms in accordance with section III of the tender document on financial evaluation:***

***1. M/s A-Plan Insurance Brokers***

- 2. M/s SHIV Insurance Brokers**
- 3. M/s Kenbright Insurance Brokers**
- 4. M/s Plan & Place Insurance Brokers**
- 5. M/s Disney Insurance Brokers**
- 6. M/s Scoreline Insurance Brokers**
- 7. M/s Peace of Mind Insurance Brokers**
- 8. M/s Liaison Insurance Brokers Ltd**
- 9. M/s Acentria Insurance Brokers**
- 10. M/s Pelican Insurance Brokers**
- 11. M/s Goldfield Insurance Brokers Ltd**
- 12. M/s Zamara Risk & Insurance Brokers Ltd**
- 13. M/s Stansfeld Insurance Broker**
- 14. M/s Transnep Insurance Brokers**

***The exercise was based on eligibility criteria provided under financial evaluation on page 47 – 49 of the tender documents, The committee tabulated, analyzed, and compared all prices/rates quoted by the above fourteen (14) brokers/bidders per policy as per attached Appendix V together with quotations from their respective underwriters.***

***The Committee while making recommendations was guided by financial evaluation criteria on page 47 – 49 of section III of the tender document and the most responsive lowest evaluated bidder per policy was considered.***

***Summary of the criteria adopted was as below:***

- i. Analysis of the Lowest quoted Prices provided by brokers for each Policy.***
- ii. Determination of the lowest quoted price as to whether it is abnormally low or high. This was done by subjecting same to the prevailing recommended market rates as tabulated by IRA.***
- iii. Determination of the lowest quoted price as to whether it is within the recommended Market range.***
- iv. Analysis of the inclusions, exclusions, and excesses by analysis of the quotes submitted by brokers and comparing same with other brokers to determine the most favorable deal for the Authority.***
- v. The winning bid was to satisfy all the above requirements.***

**vi. Considering the award, all the provision of financial evaluation criteria in the tender document formed part of the award criteria.**

**The detailed explanation/narration on the above and the extracts of the current prevailing market rates are attached to this report as Appendix V and VI.**

## **Evaluation Committee's Recommendation**

16. The Evaluation Committee recommended award of the subject tender as follows:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 1</b>	<b>Marine Hull &amp; Machinery Ports</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$555,755.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 2</b>	<b>Protection &amp; Indemnity Ports</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$44,825.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 3</b>	<b>Marine Hull Insurance &amp; Protection and Indemnity Ferries</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>\$1,097,947.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 4</b>	<b>Ports and Terminal Operators Liability-Mombasa &amp; Lamu</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$887,959.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 5</b>	<b>Comprehensive Machinery /Plant Machinery All Risks</b>	<b>Acentria Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 196,937,262.30</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 6</b>	<b>Fire and Special Industrial Risks, Earthquake</b>	<b>SHIV Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 62,000,001.33</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 7</b>	<b>Fire &amp; Perils, Earthquake Con Loss</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 13,414,516.25</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 8</b>	<b>Fire and Perils, Earthquake (Substation)</b>	<b>Transnep Insurance Brokers</b>	<b>GA Insurance Ltd</b>	<b>Kshs. 4,178,164.00</b>	<b>Recommended for being the most</b>
<b>No 9</b>	<b>Fire &amp; Special Perils, Earthquake and Domestic Package.</b>	<b>Peace of Mind Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 3,807,599.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 10</b>	<b>Political Violence, Terrorism and Sabotage</b>	<b>Acentria Insurance Brokers</b>	<b>GA Insurance Ltd</b>	<b>\$699,645.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 11</b>	<b>GPA /WIBA</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 85,226,334.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 12</b>	<b>GPA Directors</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 67,301.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 13</b>	<b>Medical Scheme for Directors</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 954,923.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 14</b>	<b>Group Life Insurance- Others</b>	<b>Scoreline Insurance Brokers</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Kshs. 181,370,934.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 15</b>	<b>Group Life (Management)</b>	<b>Transnep Insurance Brokers</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Kshs. 32,007,163.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 16</b>	<b>Public Liability</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 401,840.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 17</b>	<b>Directors and Officers Liability</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 843,820.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 18</b>	<b>Medical Insurance- Eldoret Staff</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 772,007.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 19</b>	<b>Motor commercial comprehensive Institutional Vehicles (Buses)</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 1,349,677.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 20</b>	<b>Motor Commercial Comprehensive Special Types (Ambulances and Fire Engines)</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 8,220,558.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 21</b>	<b>Motor Trade (Road Risks) Third Party Only</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>
<b>No 22</b>	<b>Motorcycle-Comprehensive</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 9,456.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 23</b>	<b>Motor Private Comprehensive-Saloon Cars</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 4,818,130.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 24</b>	<b>Motor Commercial Own Goods-Lorries</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 1,382,028.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 25</b>	<b>Motor Commercial Own Goods Pick ups</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 6,010,347.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 26</b>	<b>Hospital Malpractice cover</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 652,965.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 27</b>	<b>Fidelity guarantee cover</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 452,065.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 28</b>	<b>Money Policy</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 12,697.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 29</b>	<b>Goods in Transit</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>
<b>No 30</b>	<b>Burglary (Stock)</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>
<b>No 31</b>	<b>All Risk-Electronic Equipment's)</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 1,900,000.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No 32</b>	<b>Travel Insurance</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 5000.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>
<b>No.33</b>	<b>KOT II Wet Risk</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$ 652,296.00</b>	<b>Recommended for being the most responsive lowest evaluated</b>

## **Competitive Negotiation**

17. According to the Competitive Negotiation Report submitted to the Board as part of the confidential documents, the Evaluation Committee recommended competitive negotiations for three (3) policies being (i) Motor Trade (Road Risks) Third Party Only, (ii) Goods in Transit, and (iii) Burglary (Stock ) since several bidders had tied on the price.

18. Ten bidders were invited to submit their best and final price for the aforementioned policies and the Evaluation Committee found as follows:

***Six (6) bidders responded by submitting new prices as follows:***

<b>BIDDER NO</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
		<b><i>Stansfeld Insurance Brokers Limited</i></b>	<b><i>Scoreline Insurance Brokers Limited</i></b>	<b><i>Kenbright Insurance Brokers Limited</i></b>	<b><i>Goldfield Insurance Brokers Limited</i></b>	<b><i>Acentria Insurance Brokers Limited</i></b>	<b><i>Pelican Insurance Brokers Limited</i></b>
	<b><i>Description of Item to be insured</i></b>						
<b>21</b>	<b><i>Motor trade (Road risks) Third party only</i></b>	<b>24,851</b>		<b>24,451</b>			
<b>29</b>	<b><i>Goods in Transit</i></b>		<b>477,178</b>	<b>477,178</b>		<b>421,930</b>	<b>477,178</b>

<b>30</b>	<b>Burglary (Stock)</b>	<b>11,949</b>		<b>11,550</b>	<b>11,949</b>		
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**Evaluation. The Committee compared the offered prices only.**

**Recommendation. The Committee recommends award to the Lowest Evaluated Bidder for each of the Policies as Follows:**

<b>Policy No.</b>	<b>Description of Item to be insured</b>	<b>Insurance broker</b>	<b>Recommended Bidder</b>	<b>Quoted Price (best and final price)</b>	<b>Remarks</b>
<b>21</b>	<b>Motor trade (Road risks) Third party only</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kenbright Insurance Brokers Limited</b>	<b>24,451</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>29</b>	<b>Goods in Transit</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Acentria Insurance Brokers Limited</b>	<b>421,930</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>30</b>	<b>Burglary (Stock)</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kenbright Insurance Brokers Limited</b>	<b>11,550</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

### **Professional Opinion**

19. In a Professional Opinion dated 12<sup>th</sup> January 2026 (hereinafter referred to as "the Professional Opinion"), the Principal Supply Chain Management Officer (CR & R) for the General Manager, Supply Chain Management, Mr. Maurice Muya, reviewed the manner in which the

subject procurement process in the subject tender was undertaken including evaluation of tenders, competitive negotiations, and due diligence and concurred with the recommendations of award of the subject tender made by the Evaluation Committee. He sought for approval of award of the subject tender as follows:

***You are requested to consider and if deemed fit: -***

***I. Approve award of Tender No. KPA/005/2025-26/INS- Provision of Insurance Brokerage Services to the twelve (12) firms listed below for being the lowest responsive firms at their respective quoted premiums per policy for a period of three (3) years from 1<sup>st</sup> February 2026.***

- 1. M/s SHIV Insurance Brokers Limited***
- 2. M/s Kenbright Insurance Brokers Limited***
- 3. M/s Plan & Place Insurance Brokers Limited***
- 4. M/s Disney Insurance Brokers Limited***
- 5. M/s Scoreline Insurance Brokers Limited***
- 6. M/s Peace of Mind Insurance Brokers Limited***
- 7. M/s Liaison Group Insurance Brokers Limited***
- 8. M/s Acentria Insurance Brokers Limited***
- 9. M/s Pelican Insurance Brokers Limited***
- 10. M/s Goldfield Insurance Brokers Limited***
- 11. M/s Zamara Risk & Insurance Brokers Limited***
- 12. M/s Transnep Insurance Brokers Limited***

20. The Professional Opinion was subsequently approved by the 1<sup>st</sup> Respondent.

### **Notification to tenderers**

21. *Vide* letters dated 12<sup>th</sup> January 2026, tenderers were notified of the outcome of evaluation of the subject tender.

### **REQUEST FOR REVIEW NO. 12 OF 2026**

22. On 26<sup>th</sup> January 2026, Disney Insurance Brokers (K) Limited, the Applicant herein, filed through Matheka Oketch & Company Advocates, a Request for Review of even date accompanied by an Applicant's Statement in Support of the Request for Review of even date made by Ann Ngugi, its General Manager (hereinafter referred to as the 'instant Request for Review') seeking the following orders from the Board:

***a) The entire tender process in Tender No. KPA/005/2025-26/INS for the Provision of Insurance Brokerage Services by the Respondents be nullified and the Respondents be directed to re-tender for Provision of Insurance Brokerage Services.***

***b) The Respondents be compelled to pay the Applicant the Costs arising from and incidental to this Request for Review; and***

***c) The Public Procurement Administrative Review 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.***

23. In a Notification of Appeal and a letter dated 26<sup>th</sup> January 2026, Mr. Philemon Kiprop, the Secretary of the Board notified the 1<sup>st</sup> and 2<sup>nd</sup> Respondents of the filing of the Request for Review and the suspension of the procurement proceedings, while forwarding to the said Respondents a copy of the Request for Review together with the

Board's Circular No. 02/2020 dated 24<sup>th</sup> March 2020. Further, the Respondents were requested to submit a response to the Request for Review together with confidential documents concerning the matter within five (5) days from 26<sup>th</sup> January 2026.

24. On 30<sup>th</sup> January 2026, the Respondents filed through MM & Mabeya Advocates a Notice of Appointment of Advocates of even date, a Statement of Response sworn on 29<sup>th</sup> January 2026 by Amos Cheruiyot, the Procuring Entity's Legal Officer and confidential documents concerning the subject tender in line with Section 67(3)(e) of the Act.
25. On 2<sup>nd</sup> February 2026, Goldfield Insurance Brokers Ltd filed through Koome Muketha Advocates a Notice of Appointment of Advocates of even date and a Notice of Preliminary Objection and Grounds of Opposition of even date.
26. The Board Secretary *vide* Hearing Notice dated 5<sup>th</sup> February 2026 and email of 6<sup>th</sup> February 2026 notified parties and all tenderers in the subject tender of an online hearing of the Request for Review slated for 10<sup>th</sup> February 2026 at 2.00 p.m., through the link availed in the said Hearing Notice.
27. On 9<sup>th</sup> February 2026, the Applicant filed an Applicant's Response to the Respondent's Statement of Response of even date made by Ann Ngugi, its General Manager, Applicant's Response to the Proposed

Interested Party Notice of Preliminary Objection and Grounds of Opposition of even date, and Written Submissions of even date.

28. On 10<sup>th</sup> February 2026, Scoreline Insurance Brokers Limited filed through NOW Advocates LLP a Notice of Appointment of Advocates. *Vide* email of even date, it requested to be served with all documents filed before the Board together with documents the Board had issued bidders with respect to the subject matter and indicated that it would be seeking an adjournment of the slated hearing to enable it file its requisite responses to the Request for Review.

29. When the matter first came up for hearing on 10<sup>th</sup> February 2026, the Board read out pleadings filed by the respective parties in the matter. Ms. Nungo indicated that she had just been instructed and requested for an adjournment to allow Scoreline Insurance Brokers Limited to file their responses in the instant Request for Review.

30. Having heard parties' submissions, and there being no objection to the request for adjournment, the Board noted that the instant Request for Review and Request for Review No. 11 of 2026 related to the same procurement process in the subject tender and directed:

- i. Request for Review No. 11 of 2026 and Request for Review No. 12 of 2026 be argued together and heard on 12<sup>th</sup> February 2026 at 1.30 p.m.

- ii. Scoreline Insurance Brokers Limited to file and serve its response to the instant Request for Review by 11.00 a.m. on 12<sup>th</sup> February 2026.
- iii. Parties to file and serve their written submissions.

31. On the same day of 10<sup>th</sup> February 2026, Scoreline Insurance Brokers Limited filed through their advocate a Notice of Preliminary Objection dated 10<sup>th</sup> February 2026.

32. On 11<sup>th</sup> February 2026, the Respondents filed Written Submissions dated 10<sup>th</sup> February 2026.

33. Scoreline Insurance Brokers Limited filed on 11<sup>th</sup> February 2026 a Replying Affidavit sworn on 10<sup>th</sup> February 2026 by Alfred Randu Hare, its Director, Written Submissions dated 11<sup>th</sup> February 2026, and a List and Bundle of Authorities dated 11<sup>th</sup> February 2026.

34. The Applicant filed on 11<sup>th</sup> February 2026 a List and Bundle of Authorities dated 9<sup>th</sup> February 2026.

35. At the hearing on 12<sup>th</sup> February 2026, the Board confirmed pleadings filed and that parties had exchanged their respective documents. The Board directed that the hearing of the preliminary objections raised would be heard as part of the substantive Request for Review. This was in accordance with Regulation 209(4) of the Public Procurement

and Asset Disposal Regulations, 2020 (hereinafter referred to as 'Regulations 2020') which grants the Board the discretion to hear preliminary objections as part of a substantive request for review and deliver one decision. Thus, the matter proceeded for virtual hearing as scheduled.

36. At the conclusion of the online hearing, the Board informed parties that the instant Request for Review having been filed on 26<sup>th</sup> January 2026 was due to expire on 16<sup>th</sup> February 2026 and that the Board would communicate its decision on or before 16<sup>th</sup> February 2026 to all parties to the Request for Review via email.

### **PARTIES' SUBMISSIONS**

#### **Goldfield Insurance Brokers Ltd submissions on its Preliminary Objection**

37. In his submissions, Mr. Mulaku placed reliance on the Notice of Preliminary Objection and Grounds of Opposition filed before the Board by Goldfield Insurance Brokers.

38. He indicated that Goldfield Insurance Brokers was awarded three (3) lots being Marine Hull Insurance & Protection and Indemnity Ferries, All Risk-Electronic (Equipment) and Travel Insurance in the subject tender and pointed out that the Applicant had as well bid for the three (3) lots awarded to Goldfield Insurance Brokers. He further pointed out that the notification of the aforementioned three (3) awards was

communicated through a Letter of Award dated 12<sup>th</sup> January 2026 and a schedule indicating the successful bidders for all the lots was also availed to all the bidders.

39. Counsel submitted that the Board lacks jurisdiction to hear and determine the instant Request for Review since the Applicant failed to enjoin Goldfield Insurance Brokers and all other successful bidders for the other lots contrary to Section 170(c) of the Act which provides that parties to review shall include the tenderer notified as successful by the procuring entity. He further submitted that Goldfield Insurance Brokers only came to learn about the instant proceedings when it visited the Respondents to enquire on contract signing formalities.

40. Additionally, counsel submitted that the Board lacks jurisdiction to hear and determine the instant Request for Review since it was filed outside the fourteen (14) days provided for under section 167 (1) of the Act. He argued that whereas in paragraph B of the review application the Applicant challenges the manner in which the tender opening was conducted way back on 11<sup>th</sup> December, 2025, the instant Request for Review was filed on 26<sup>th</sup> January, 2026 being 45 days down the line.

41. He further submitted that whereas in paragraphs D, E, F, G, H, I and J of the review application, the Applicant challenges the specification of the Tender Documents issued to the bidders in November, 2025, the instant Request for Review was filed on 26<sup>th</sup> January, 2026 being more than two months after occurrence of the alleged breach.

42. Mr. Mulaku urged the Board to find that the Applicant lacks the requisite *locus standi* to institute the instant proceedings and does not have the legal capacity to challenge the specifications of the subject tender as per paragraphs D, E, F, G, H, I, and J of the review application since by participating and submitting its bid, the Applicant constructively consented to the specification of the Tender Document.

43. Mr. Mulaku urged the Board to strike out the instant Request for Review with costs.

### **Scoreline Insurance Brokers Limited submissions on its Preliminary Objection**

44. In her submissions, Ms. Nungo placed reliance on the Notice of Preliminary Objection filed before the Board by Scoreline Insurance Brokers Limited and associated herself with submissions made by Mr. Mulaku.

45. Counsel indicated that the Preliminary Objection by Scoreline Insurance Brokers Limited is based on pure points of law and challenges the jurisdiction of the Board under Section 167(1) and 170 (c) of the Act.

46. She submitted that the Request for Review as drawn and filed is time-barred for having been filed outside the stipulated timelines of 14 days of the alleged occurrence of breach being complained of, contrary to Section 167(1) of the Act as read with Section Regulation 203(2)(c)(i) of Regulations 2020 to the extent that:

- a. The Applicant alleges breach of provisions of law and the Tender Document for alleged failure by the Respondents to Read out Bid Prices in open to the parties present on 11<sup>th</sup> December 2025, as pleaded under Ground B of the Request for Review;
- b. The Applicant alleges breach of provisions of law and the Tender Document for failure by the Respondents to provide the Tender Opening Minutes to the participating tenderers that took place on 11<sup>th</sup> December 2025, as pleaded under Ground C of the Request for Review;
- c. The Applicant anchors the Request for Review on challenging the provisions of the Tender Document issued on 28<sup>th</sup> November 2025 and Addendum No.1 as pleaded under Grounds D, E, F, G, H and I thereof;and
- d. The Applicant had knowledge of the alleged breaches of the law complained of and became aware of the provisions of the Tender Document on 28<sup>th</sup> November 2025 when the Tender Document was uploaded and on 4<sup>th</sup> December 2025 upon issuance of Addendum No.1. and as such, the Applicant ought to have raised the alleged breaches of law and challenged the provisions of the Tender Document and/or the Addendum within fourteen (14) days from

date of their discovery pursuant to Section 167(1) of the Act read with Regulation 203 (2)(c)(i) of Regulations 2020.

47. Ms. Nungo further submitted that the instant Request for Review as filed offends the provisions under Section 170(c) of the Act for failure to include Scoreline Insurance Brokers Limited, a successful bidder alongside all other successful bidders as mandatory and necessary parties to the instant procurement proceedings before the Board. She cautioned that there were over 25 tender classes in the subject tender where the successful bidders have not been accounted for and the orders being sought, if issued, would adversely affect them. She pointed out that whereas the Applicant claims that it was not aware of the successful bidders in the subject tender, it ought to have obtained such critical information before filing the instant Request for Review.

48. In support of her arguments, counsel referred the Board to Article 47 and 50 of the Constitution and the holdings in *PPARB Application No.47 of 2025 of 17<sup>th</sup> April 2025 Between County Guards Limited and Accounting Officer, Multimedia University of Kenya, Multimedia University of Kenya and Canon Security Services Kenya Limited; Judicial Review 201 of 2017 Peesam Limited vs Public Procurement Administrative Review Board and 2 Others [2018]; Judicial Review No. 21 of 2019, Republic v. Public Procurement Administrative Review Board v. Kenya Ports Authority & Another ex parte Jalaram Industrial Suppliers Limited; PPARB Application No.48/2021 of 6<sup>th</sup> April 2021 Fahimyasir Company Limited v The Accounting Officer, Kenya Urban*

*Roads Authority & 2 Others and Civil Appeal No.E1009 of 2023 Public Procurement Administrative Review Board and Four M Insurance Limited, Sedgwick Kenya Insurance Brokers Limited, The Managing Director, Kenya Pipeline Company Limited, and Kenya Pipeline Company Limited* and urged the Board to strike out the instant Request for Review for being fatally defective, bad in law, and time barred.

**Applicant's submissions on the Preliminary objections and substantive issues raised in the instant Request for Review**

49. The Applicant placed reliance on its pleadings filed before the Board.

50. With regard to the preliminary objections raised in the instant Request for Review, the Applicant while opposing the said objections submitted that preliminary objections were defective and bad in law having failed to meet the fundamental test of a preliminary objection as established in the locus classicus case of *Mukisa Biscuit Manufacturing Co. Ltd vs West End Distributors (1969) EA 696*. He argued that the preliminary objections relied heavily on factual disputes such as issues of notification to the Applicant, when they came to learn of the instant proceedings, the specific dates that the Applicant participated in the process, which require the Board to interrogate evidence.

51. He submitted that the Applicant is a stranger to Goldfield Insurance Brokers being awarded three (3) tender classes that it participated in and maintained that the Applicant has never been notified, contrary to Section 87(3) of the Act, by the Respondents of who was successful in

the other classes in the subject tender that it participated in where it was not successful.

52. Counsel argued that Section 170 of the Act does not obligate the Applicant to join the Interested Parties to the proceedings and only provides a list of who are to be parties to the proceedings before the Board. Further, that Regulation 205(5) of Regulations 2020 obligates the Board to notify all other parties to the review upon receipt of such documents from a procuring entity. Without prejudice to the foregoing, he pointed out that the Interested Parties had already identified themselves and moved the Board to be joined to the proceedings proving that the Board's jurisdiction is active and not ousted by the initial non-joinder noting that the Board has power to join the interested parties at any stage to ensure a fair hearing. He distinguished the circumstances pertaining to the authorities cited by the Scoreline Insurance Brokers Limited and pointed out that the Interested Parties were participating in the instant proceedings and can't allege to have been locked out.

53. As to whether the instant Request for Review as filed is time barred, Counsel submitted that the 14 days window for review began from the date the Applicant became aware of the breach and the date of notification of award being on 12<sup>th</sup> January 2026 and having filed the review application on 26<sup>th</sup> January 2026, it was within the 14 days statutory timelines. He further submitted that the breach complained of is a continuous breach since the Tender Document was still being

relied upon to award and have successful bidders enter into contracts with the Procuring Entity. He argued that nothing in the Constitution, the Act, or Regulations 2020 bar the Applicant from challenging the actions of the Respondents since even if the Applicant is successful in one or two classes, it has the right to challenge the non-award of other classes within 14 days of being notified of the outcome.

54. As to the allegation that the Applicant lacks *locus standi* before the Board, counsel submitted that pursuant to Section 167(1) of the Act, any candidate or tenderer who claims to have suffered loss due to a breach of duty by a procuring entity has a right to seek review.

55. He further submitted that participating in a tender does not bar a bidder from challenging illegal or unconstitutional clauses once those clauses are applied to their detriment during evaluation. Counsel pointed out that the Applicant was the lowest evaluated responsive bidder for various policies which included (i) Marine Hull & Machinery Ports, (ii) Fire and Special Industrial Risks, Earthquake, (iii) Fire & Special Perils, Earthquake and Domestic Package, (iv) Group Life Insurance-Others, (v) Group Life (Management), and (vi) Public Liability, and that it has a clear interest in ensuring public funds are utilized properly and is not estopped from challenging a flawed award process.

56. Counsel urged the Board to note that the Respondents' notification letter dated 12<sup>th</sup> January 2026 failed to disclose the reasons why the

Applicant's bid for 28 policies was unsuccessful and this renders the said notification null and void which is a matter of substantive law that cannot be bypassed through a Preliminary Objection.

57. With regard to the substantive issues raised in the instant Request for Review, Counsel submitted that the Applicant did accept the notification of award of some of the policies as notified on 12<sup>th</sup> January 2026 on a without prejudice basis and reserved its right to exercise its rights as provided under the Act. He reiterated that Section 87(3) of the Act obligates the Respondents to provide specific reasons for non-award and relied on the holdings in *Decision No. 147 of 2019 (Utmost Insurance Brokers vs KPA)* and *Nairobi High Court Misc. Application No. 60 of 2020; Republic v The Public Procurement Administrative Review Board & another; Premier Verification Quality Services (PVQS) Limited (Interested Party) Ex Parte Tuv Austria Turk [2020] eKLR* in support of his argument.

58. He submitted that bids in the subject tender were opened on 11<sup>th</sup> December 2025 but the Respondents failed to read out bid prices for all the tenderers in the subject tender during the tender opening in breach of Section 78 of the Act as read with Regulation 73 and 125(11) of Regulations 2020 and ITT 26.5 of the Tender Document thus stripping the process of the transparency required under Article 227 of the Constitution. He pointed out that the Respondents have admitted in their response that this was not done thus acting in breach of their own tender document. He further pointed out that the Respondent's

reliance on Regulation 73(1)(a) of Regulations 2020 is a desperate attempt to bypass its own mandatory instructions since ITT Clause 26.5 specifically states that the Respondent shall read out total tender prices per lot. That by failing to do so, they have made it impossible to verify the absolute and final nature of bid prices required by Section 82 of the Act, thus creating a vacuum for the manipulation of financial results

59. He argued that the Applicant's financial bids were lower than the awarded bids yet the Respondents bypassed it using an undefined market price range and an unlawful 50% award cap in the Tender Document despite its obligation to ensure effective use of public funds. He further argued that the Respondents' refusal to award the lowest bidder is not only a breach of Section 86 of the Act but a gross misuse of public funds, since the Procuring Entity will pay higher premiums for the same risk without any legal or factual justification.

60. Counsel pointed out that the Applicant having reviewed the Tender Document and Addendum No. 1 had identified several discriminatory and restrictive clauses that violate the Constitution and the Act. He indicated that the Tender Document under Financial Evaluation Item 'p' introduces a new restriction and an arbitrary ceiling stating that no bidder will be awarded more than 50% of the total insurance annual budget or gross premium and is also against the provisions of the Act by stating in bold under item 'o' that the Procuring Entity is not obligated to award policies to the lowest priced bidder but only to those within the market price range. He argued that this failure to define the

market price range creates a lack of transparency and grants the Evaluation Committee unfettered discretion, contrary to Section 86 of the Act and the principles of fairness and competitiveness envisioned under Article 227 of the Constitution.

61. Counsel argued that bypassing the Applicant's lower quotes in favor of higher bidders using these illegal clauses results in a massive loss of public funds and is contrary to Section 155 of the Act yet the Applicant had indeed obtained a good technical evaluation score and ought to be awarded these policies awarded to bidders who had quoted above its financial bid.

62. Counsel submitted that Mandatory Requirement UD4 of the Tender Document requires underwriters to have underwritten Kshs. 1.5 billion in gross premiums, while explicitly excluding motor and medical insurance from this calculation while in Addendum No. 1, the Respondents justifies this by claiming motor and medical risks have minimal impact on its profile and are erratic which is a subjective justification that acts as technical discrimination under Section 60 of the Act.

63. Further, that the tender introduces a blanket prohibition against Managing General Agents (MGAs) leading or participating in placements and this exclusion of IRA-licensed entities limits the Respondent's access to specialized risk markets and constitutes an unlawful restriction of competition.

64. The Applicant submitted that the Tender Document is riddled with inconsistencies regarding the mode of submission and that while TDS ITT 2.2 (b) identifies electronic procurement, URL, TDS ITT 23.1 and Addendum No. 1 explicitly state that tenderers shall not have the option of submitting tenders electronically which is a breach of Ministry directives and fails to provide a transparent and efficient system as required by the Constitution.

65. The Applicant urged the Board to allow the instant Request for Review as prayed.

**Respondents' submissions on the Preliminary objections and substantive issues raised in the instant Request for Review**

66. The Respondents relied on its pleadings, and confidential documents regarding the subject tender filed before the Board.

67. With regard to the preliminary objection raised, Mr. Makori associated himself with the sentiments of Goldfield Insurance Brokers and Scoreline Insurance Brokers Limited. He pointed out that the issues raised against the Tender Document are different from issues pertaining to the award of the subject tender.

68. On the substantive issues raised, counsel submitted that the Respondents complied fully with Section 87(1) of the Act by issuing Notices of Intention to Award and Regret Letters dated 12<sup>th</sup> January

2026, dispatched on 13<sup>th</sup> January 2026 to all bidders. He indicated that the notices disclosed the successful bidders and the classes awarded, thereby satisfying the statutory requirement of notification and triggering the mandatory fourteen (14) day standstill period under Section 87(3).

69. Counsel argued that the Applicant's reliance on Article 47(2) of the Constitution is misplaced having acknowledged receipt of the notices and accepted the awards made in its favour, thereby demonstrating that it was adequately informed of the decision. He further argued that the Applicant cannot approbate and reprobate, accepting awards on one hand while alleging lack of reasons on the other.

70. As regards, compliance with Section 78 of the Act on tender opening, counsel submitted that the subject tender was opened on 11<sup>th</sup> December 2025 at 10.00 a.m. by a duly appointed Tender Opening Committee with bidders present including the Applicant and that in compliance with Section 78(6) of the Act, tender opening minutes were prepared and signed by all committee members. While making reference to Section 78 (10) of the Act, counsel submitted that the Act does not impose an obligation on the Procuring Entity to automatically supply tender opening minutes to bidders and that the Applicant never requested for the said minutes and cannot allege non-disclosure. He further made reference to Regulation 73(1)(a) of Regulations 2020 and submitted that this provision permits non-reading of prices where a

tender contains numerous separately quoted items, as was the case in this multi-class insurance tender.

71. On the evaluation and award of the subject tender, counsel submitted that evaluation was conducted by a duly appointed Evaluation Committee in line with Section 84 of the Act and upon conclusion of evaluation, a professional opinion was rendered and approved by the 2<sup>nd</sup> Respondent. He pointed out that award was made in line with Section 86 of the Act which provides that the successful bidder shall be determined based on the criteria specified in the Tender Document and that Section 86(1) of the Act recognizes multiple bases for award including:

- a) the tender with the lowest evaluated price;
- b) the responsive proposal with the highest combined technical and financial score where a Request for Proposals method is used;
- c) the tender with the lowest evaluated total cost of ownership; or
- d) the tender with the highest technical score where professional charges are regulated by law

72. Counsel reiterated that the Tender Document clearly set out the applicable evaluation and award criteria, which were followed in full and that the Applicant itself was awarded several insurance classes, demonstrating that the evaluation process was conducted fairly and in accordance with the provisions of the Act.

73. He further pointed out that Regulation 125(11) of Regulations 2020 applies strictly to Least Cost Selection under consultancy services and is wholly inapplicable to the open tendering method used herein. Additionally, he indicated that the Tender Document does not contain ITT Clause 26.5 as alleged by the Applicant and that its reliance on a non-existent clause is misleading and indicative of a misapprehension of the Tender Document. Further, that Section 155 of the Act as relied upon by the Applicant does not apply in the subject tender.

74. On the issue of capping of awards in the subject tender, counsel submitted that the capping mechanism is lawful, rational, and consistent with Article 227(1) of the Constitution, which demands procurement systems that are fair, equitable, transparent, competitive and cost-effective. He argued that the capping provision promotes competition, risk diversification, and prevents monopolization of public services, without negating price competitiveness under Section 86 of the Act. He further argued that having participated in the tender without objection and benefited from the same provision, the Applicant is estopped from challenging it post-award.

75. As to the mode of submission of the subject tender, counsel submitted that while the Tender Document initially referenced electronic procurement (e-GP), the Respondents lawfully obtained an exemption from the National Treasury pursuant to the Act and Regulations due to technical challenges. He urged the Board to note that all bidders were duly informed complied with the physical submission requirements, and

raised no objection prior to tender closure and as such, the Applicant cannot raise the issue retrospectively.

76. On the issue of exclusion of Managed General Agents (MGAs), counsel submitted that the subject tender related strictly to Insurance Brokerage Services, a role fundamentally distinct from that of Managed General Agents, who act on behalf of underwriters. He pointed out that permitting MGAs would have created conflicts of interest and undermined the integrity of the procurement process. That in any event, the Applicant is not an MGA and has failed to demonstrate any prejudice arising from the alleged exclusion.

77. As to the mandatory Requirement UD4, counsel submitted that this requirement was designed to assess the financial strength of underwriters, not brokers and as such, the Applicant was not adversely affected, and the underwriters backing its bids met the requirement. He argued that this allegation is speculative and devoid of merit.

78. The Respondents urged the Board to dismiss the instant Request for Review with costs.

**Goldfield Insurance Brokers Ltd rejoinder on the preliminary objection and submissions on the substantive issues raised in the instant Request for Review**

79. In his rejoinder, Mr. Mulaku associated himself with submissions made by Ms. Nungo for Scoreline Insurance Brokers Limited and reiterated his earlier submissions.

**Scoreline Insurance Brokers Limited rejoinder on the preliminary objection and submissions on the substantive issues raised in the instant Request for Review**

80. In a rejoinder on the preliminary objection, Ms. Nungo submitted that the case of *Mukisa Biscuit Manufacturing Co. Ltd vs West End Distributors (1969) EA 696* gives examples of jurisdiction and points of limitation as points of law which is what has been raised before the Board. She indicated that the facts on the specific aspects of the Request for Review that are time barred are not in contest. Counsel reiterated that Section 170 (c) of the Act is set in mandatory terms and argued that it is not enough for the Board to send out notifications of existence of the instant Request for Review noting that the other successful bidders likely to be adversely affected should the orders sought be granted are not before the Board.

81. On the substantive issues raised in the instant Request for Review, Ms. Nungo pointed out that other than the issue of issuance of the notification letter, all other grievances raised by the Applicant revolve around provisions and specifications in the Tender Document.

82. As to whether the Respondents acted in breach of Section 78 of the Act as read with Regulations 73 and 125(11) of Regulations 2020 and

ITT 26.5 of the Tender Document by failing to read out the total tender prices, per lot openly to the parties present, counsel submitted that ITT 26.5 does not mandatorily confer an obligation to reading of the total tender prices per lot as it qualifies that obligation in instances where it is not applicable to do such reading. She further submitted that Section 78(6)(b) of the Act requires reading out loud of the total price of a tender during opening of tenders where applicable and not the total price of each lot in a tender as alleged by the Applicant. She urged the Board to note that Regulation 73(1)(a) of Regulations 2020 grants discretion to reading out loud the total price of a tender where such tender consists of numerous items that are quoted separately, such as is the case in the subject tender.

83. Further, that Regulation 125(11) of Regulations 2020 requires publicly reading out of the bid price of a financial bid and not bid price per lot of a financial bid and is only applicable when applying the procedure for evaluation of least cost selection in a Request for Proposal method of tendering under Section 124(8) of the Act and not an open method of tendering as is the case with the subject tender and as admitted by the Applicant at paragraph 4 of its Statement in Support of the Request for Review.

84. As to whether the Respondents acted in breach of Section 78(10) of the Act, Ms. Nungo submitted that this section does not confer an

obligation on the Respondents to grant bidders represented and present at the opening of tenders, tender opening minutes as alleged by the Applicant. While relying on the holding in *PPARB Application No 137 & 143 Of 2019 Kilindini Travel, Regal Tours Vs KPA* , she submitted that a bidder may be provided with a tender opening register subject to a bidder requesting for the same per Section 78(8) of the Act and that the Applicant has not demonstrated that it did request for the said register and such request declined.

85. As to whether the Respondents acted in breach of Section 80 and 86 of the Act, counsel submitted that the Respondents provided a Tender Document that outlined clear criteria for evaluation and award for all qualified and interested bidders to have knowledge and be aware of before bidding, thus satisfying the principle of fairness, transparency and competitiveness. She pointed out that Section 80(2) and 86(1)(a) of the Act provides for evaluation to be conducted in accordance with the procedures and criteria for evaluation provided in a Tender Document and for the successful tender to be the one with the lowest evaluated price, being a tender that has been determined successful having successfully been evaluated at the preliminary/mandatory stage, the technical evaluation stage and whose price was determined as the lowest evaluated price at the financial evaluation stage.

86. Counsel reiterated that the tender with lowest evaluated price is not a tender that simply has the lowest price but one whose price has been subjected to all the stages of evaluation and has emerged the successful one. She indicated that the Applicant has not demonstrated that its tender prices per the classes of insurance policies were evaluated at all the stages of evaluation and emerged the successful one with the lowest evaluated price.

87. Counsel submitted that the Applicant had failed to demonstrate how the criteria for evaluation and award of the subject tender breached Section 155 of the Act that speaks to requirements for preferences and reservations.

88. In response to the issue of whether the Tender Document and Addendum No. 1 were full of inconsistencies and discriminatory, counsel submitted that there were no such inconsistencies and pointed out that ITT 2.2(b) of the Tender Data Sheet at page 29 of the Tender Document provided for electronic procurement by the procuring entity while ITT 23.1 of the Tender Data Sheet at page 30 of the Tender Document did not provide for electronic submission of bids by bidders. She further pointed out that Section 75(1) of the Act allows for amendment of a tender document at any time before the tender submission deadline by issuing an addendum and that the Procuring Entity vide Addendum No. 1 amended ITT 2.2(b) of the Tender Data

Sheet where under Clarification No. 5 it barred submission of tenders electronically.

89. As to the allegation of discrimination, counsel submitted that Section 60 of the Act grants the accounting officer power to prepare specific requirements relating to the services being procured and the Applicant cannot dictate nor usurp such powers noting that vide Addendum No. 1. The Respondents explained their basis for the specific requirements was to align with the understanding and cognizance of the complex risks facing the 1<sup>st</sup> Respondent revolving around liabilities, fire and engineering related risk.

90. On whether the Applicant has substantiated the allegation that it was the lowest evaluated bidder in the subject tender, counsel while relying on Sections 107, 108, 109 and 112 of the Evidence Act and the holding in *PPARB Application No.19 of 2022 Madison General Insurance Kenya Limited v Lt Col. (RTD) B. N. Njiraini, The Accounting Officer (KEBS) and CIC Insurance Limited* submitted that it is a well-established rule of evidence, that whosoever asserts a fact is under an obligation to prove it in order to succeed. She argued that absent of an already-discharged initial burden of proof on the Applicant, its unsubstantiated allegations do not hold any water and the same cannot stand.

91. Scoreline Insurance Brokers Limited urged the Board to dismiss the instant Request for Review with costs.

## **Applicant's Rejoinder**

92. In a rejoinder, Mr. Ayisi reiterated that Section 87(3) of the Act obligates the accounting officer of a procuring entity to notify bidders why they were not successful and to disclose the successful tender. He pointed out that there was not evidence from the Procuring Entity to demonstrate that it notified the Applicant of its unsuccessfulness in the subject tender. He pointed out that the Applicant had placed reliance on section 86 of the Act and not Section 155 with regard to the issue of the lowest evaluated bidder. He further pointed out that no evidence had been produced to show that the Applicant was not the lowest evaluated bidder in the specific policies in the subject tender referred to the Board since the burden shifted to the Procuring Entity to show how evaluation was conducted and the bidders who emerged with the lowest evaluated price.

## **BOARD'S DECISION**

93. The Board has considered each of the parties' cases, documents, pleadings, oral and written submissions, list and bundle of authorities together with confidential documents submitted to the Board by the Respondents pursuant to Section 67(3)(e) of the Act and finds the following issues call for determination.

### **A. Whether the Board has jurisdiction to hear and determine the instant Request for Review.**

In determining the first issue, the Board shall make a determination on:

- i. Whether the allegations by the Applicant raised in the instant Request for Review are time barred.
- ii. Whether the jurisdiction of the Board has been properly invoked on account of the Applicant's failure to join the successful bidders as parties pursuant to Section 170(c) of the Act.

Depending on the determination of the first issue;

**B. Whether the Procuring Entity applied the criteria outlined in the Tender Document in evaluation and award of the subject tender as read with the Constitution, the Act, and Regulations 2020.**

**C. Whether the Letter of Notification of Intention to Award dated 12<sup>th</sup> January 2026 issued to the Applicant met the threshold required in Section 87(3) of the Act as read with Regulation 82 of Regulations 2020**

**D. What orders should the Board grant in the circumstances?**

**As to whether the Board has jurisdiction to hear and determine the instant Request for Review**

94. It is trite law that courts and decision-making bodies should only act in cases where they have jurisdiction and when a question of jurisdiction arises, a Court or tribunal seized of a matter must as a matter of prudence inquire into it before doing anything concerning such a matter.

95. Black's Law Dictionary, *8th Edition*, defines jurisdiction as:

***"... the power of the court to decide a matter in controversy and presupposes the existence of a duly constituted court with control over the subject matter and the parties ... the power of courts to inquire into facts, apply the law, make decisions and declare judgment; The legal rights by which judges exercise their authority."***

96. The celebrated Court of Appeal decision in ***The Owners of Motor Vessel "Lilian S" v Caltex Oil Kenya Limited [1989] eKLR; Mombasa Court of Appeal Civil Appeal No. 50 of 1989*** underscores the centrality of the principle of jurisdiction. In particular, Nyarangi JA, decreed:

***"I think that it is reasonably plain that a question of jurisdiction ought to be raised at the earliest opportunity and the court seized of the matter is then obliged to decide the issue right away on the material before it. Jurisdiction is everything, without it, a court has no power to make one more step. Where a court has no***

**jurisdiction there would be no basis for continuation of proceedings pending evidence. A court of law downs tools in respect of the matter before it the moment it holds that it is without jurisdiction.**

97. The Supreme Court added its voice on the source of jurisdiction of a court or other decision making body in the case **Samuel Kamau Macharia and another v Kenya Commercial Bank Ltd and 2 others [2012] eKLR; Supreme Court Application No. 2 of 2011** when it decreed that;

***"A court's jurisdiction flows from either the Constitution or legislation or both. Thus, a Court of law can only exercise jurisdiction as conferred by the Constitution or other written law. It cannot arrogate to itself jurisdiction exceeding that which is conferred upon it by law. We agree with Counsel for the first and second Respondent in his submission that the issue as to whether a court of law has jurisdiction to entertain a matter before it is not one of mere procedural technicality; it goes to the very heart of the matter for without jurisdiction the Court cannot entertain any proceedings."***

98. This Board's jurisdiction is provided for in Section 167 of the Act which provides for what can and cannot be subject to proceedings before the Board and Section 172 and 173 of the Act which provides for the Powers of the Board, as follows:

**167. Request for a review**

**(1) Subject to the provisions of this Part, a candidate or a tenderer, who claims to have suffered or to risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by this Act or the Regulations, may seek administrative review within fourteen days of notification of award or date of occurrence of the alleged breach at any stage of the procurement process, or disposal process as in such manner as may be prescribed. [Emphasis by the Board]**

**(2) .....**

**(3) .....**

**(4) The following matters shall not be subject to the review of procurement proceedings under subsection (1)—**

**(a) the choice of a procurement method;**

**(b) a termination of a procurement or asset disposal proceedings in accordance with Section 63 of this Act; and**

**(c) where a contract is signed in accordance with section 135 of this Act.**

**168. ....**

**.....**

**172. Dismissal of frivolous appeals**

**Review Board may dismiss with costs a request if it is of the opinion that the request is frivolous or vexatious or was solely for the purpose of delaying the procurement proceedings or**

***performance of a contract and the applicant shall forfeit the deposit paid.***

***173. Powers of Review Board***

***Upon completing a review, the Review Board may do any one or more of the following—***

***(a) annul anything the accounting officer of a procuring entity has done in the procurement proceedings, including annulling the procurement or disposal proceedings in their entirety;***

***(b) give directions to the accounting officer of a procuring entity with respect to anything to be done or redone in the procurement or disposal proceedings;***

***(c) substitute the decision of the Review Board for any decision of the accounting officer of a procuring entity in the procurement or disposal proceedings;***

***(d) order the payment of costs as between parties to the review in accordance with the scale as prescribed; and***

***(e) order termination of the procurement process and commencement of a new procurement process.***

99. It therefore follows, for one to invoke the jurisdiction of the Board, they need to approach the Board as provided under Section 167 (1) of the Act. Section 167(1) of the Act, allows an aggrieved candidate or tenderer to seek administrative review within 14 days of (i) notification of award or (ii) date of occurrence of alleged breach of duty imposed

on a procuring entity by the Act and Regulations 2020 at any stage of the procurement process in a manner prescribed.

100. The manner in which an aggrieved candidate or tenderer seeks administrative review is prescribed under Regulation 203 of Regulations 2020 read with the Fourteenth Schedule of Regulations 2020 which prescribes the format of the request for review as follows:

***Regulation 203 - Request for a review:***

***(1) A request for review under section 167(1) of the Act shall be made in the Form set out in the Fourteenth Schedule of these Regulations.***

***(2) The request referred to in paragraph (1) shall—***

***(a) .....***;

***(b) .....***;

***(c) be made within fourteen days of —***

***(i) the occurrence of the breach complained of, where the request is made before the making of an award;***

***(ii) the notification under section 87 of the Act; or***

***(iii) the occurrence of the breach complained of, where the request is made after making of an award to the successful bidder.***

**(d) .....**

**(3) Every request for review shall be filed with the Review Board Secretary upon payment of the requisite fees and refundable deposits.**

**(4) .....**

101. Section 87 of the Act referred to in Regulation 203(2)(c)(ii) of Regulations 2020 provides as follows:

**87. Notification of intention to enter into a contract**

**(1) Before the expiry of the period during which tenders must remain valid, the accounting officer of the procuring entity shall notify in writing the person submitting the successful tender that his tender has been accepted.**

**(2) The successful bidder shall signify in writing the acceptance of the award within the time frame specified in the notification of award.**

**(3) When a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not**

***successful, disclosing the successful tenderer as appropriate and reasons thereof.***

***(4) For greater certainty, a notification under subsection (1) does not form a contract nor reduce the validity period for a tender or tender security.***

102. The above provisions show that an aggrieved candidate or tenderer invokes the jurisdiction of the Board by filing a request for review with the Board Secretary within 14 days of (i) occurrence of breach complained of, having taken place before an award is made, (ii) notification of intention to enter into a contract having been issued or (iii) occurrence of breach complained of, having taken place after making of an award to the successful tenderer. Simply stated, an aggrieved candidate or tenderer can invoke the jurisdiction of the Board in three instances namely, (i) before a notification of intention to enter into a contract is made, (ii) when a notification of intention to enter into a contract is made and (iii) after a notification to enter into a contract has been made.

103. The option available for an aggrieved candidate or tenderer in the aforementioned three instances is determinant on when occurrence of breach complained of took place and should be within 14 days of such occurrence of breach.

104. Section 167 of the Act and Regulation 203 of the 2020 Regulations identifies the benchmark events for the running of time to be the date

of notification of the award or date of occurrence of the breach complained of.

***As to whether the allegations by the Applicant raised in the instant Request for Review are time barred;***

105. The Applicant under Ground B of the Request for Review contends that the Respondents breached Section 78 of the Act as read with Regulation 73 and 125(11) of Regulations 2020 and ITT Clause 26.5 of the Tender Document by failing to read out the bid prices for each of the lots tendered during the tender opening exercise on 11<sup>th</sup> December 2025. Further under Ground C of the Request for Review, the Applicant contends that the Respondents breached Section 78(10) of the Act by failing to provide the Tender Opening Minutes to participating bidders and that this concealment prevented the Applicant from verifying if the bid prices were recorded accurately at the point of entry.

106. The Applicant under Ground D, E, F of the Request for Review contends that the Respondents breached Section 86 (1)(a) of the Act by failing to award the various classes of insurance policies in the subject tender to the lowest evaluated bidder and instead, applied an arbitrary 50% business volume cap (Financial Evaluation Item 'p') and an undefined market price range (Financial Evaluation Item 'o') to bypass it tender thus leading to a massive loss of public funds and violates the principles of fairness, competitiveness, and cost-effectiveness under Article 227 of the Constitution.

107. The Applicant under G of the Request for Review contends that the Tender Document was full of inconsistencies noting that the mode of bid submission under ITT 2.2 (b) of the TDS had been provided as electronic procurement (e-GP) yet Addendum No. 1 under Clarification No. 5 indicated that bidders would not have the option of submitting tenders electronically despite not being informed of any exemption obtained by the Respondents to warrant breach of the Ministry's directions that all tenders must be submitted electronically.

108. Under Ground H and I of the Request for Review, the Applicant contends that the Tender Document contained discriminative clauses to wit Financial Evaluation Item 'g' and multiple Notes to Requirements which indicated that Managed General Agents (MGA's) would not be considered and were prohibited from leading or participating in any placement thus violating Section 60(2) of the Act. Further, that Mandatory Requirement UD4 and the Technical Scoring of Underwriters requiring a minimum annual gross premium of Kshs. 1.5 Billion while explicitly excluding motor and medical insurance from this calculation was discriminatory and in violation of Section 60(2) of the Act as it arbitrarily excludes legitimate performance history from IRA-licensed providers, narrowing the field of competition to a few legacy firms.

109. In response to the above contentions by the Applicant, Goldfield Insurance Brokers Ltd and Scoreline Insurance Brokers Limited raised Preliminary Objections and urged the Board to strike out the instant

Request for Review on the grounds that the Request for Review as drawn and filed is time-barred for having been filed outside the stipulated timelines of 14 days of the alleged occurrence of breach being complained of, contrary to Section 167(1) of the Act as read with Section Regulation 203(2)(c)(i) of Regulations 2020. Both Goldfield Insurance Brokers Ltd and Scoreline Insurance Brokers Limited submitted that the Applicant's challenge on the manner in which the tender opening was conducted, mode of tender submission, and failure by the Respondents to provide the tender opening minutes has been raised 45 days down the line noting that the tender opening was on 11<sup>th</sup> December 2025 while the review application was filed on 26<sup>th</sup> January 2026. Further, that the Applicant had knowledge of the provisions of the Tender Document challenged under Grounds D, E, F, G, H and I of the Request for Review having been issued with the said Tender Document on 28<sup>th</sup> November 2025 when it was uploaded, and on 4<sup>th</sup> December 2025 when Addendum No. 1 was issued and as such, ought to have challenged the alleged breaches within fourteen (14) days from date of their discovery pursuant to Section 167(1) of the Act read with Regulation 203 (2)(c)(i) of Regulations 2020 and not more than two (2) months after their alleged occurrence.

110. On their part, the Respondents associated themselves with the grounds of preliminary objections raised by Goldfield Insurance Brokers Ltd and Scoreline Insurance Brokers Limited and submissions made.

111. In rejoinder, the Applicant submitted that the 14 days statutory period begins from the date it became aware of the alleged breach or upon notification of the outcome of evaluation of the subject tender. It argued that having received the notification letter dated 12<sup>th</sup> January 2026 on 13<sup>th</sup> January 2026, it is within the stipulated timelines and that the complained breach of duty by the Respondents is a continuous breach since the Tender Document is still being relied upon to award and have the successful bidders entire into a contract. It reiterated that it has the right to lodge a complaint with regard to the non-award of other classes of policies in the subject tender within 14 days of being notified of the outcome noting the non-disclosure by the Respondents of the reasons why its bid for 28 policies was unsuccessful.

112. This Board has severally held in the past that procurement proceedings are time bound and that a candidate or a tenderer who wishes to challenge a decision of a procuring entity with respect to a tender must come before the Board at the earliest, by using the earliest option available under Regulation 203(2)(c) of Regulations 2020 so as not to be accused of laches. In **Republic v Public Procurement Administrative Review Board & 2 others Ex-Parte Kemotrade Investment Limited [2018] eKLR** the High Court at paragraphs 65, 66 and 67 noted that to determine when time starts to run, such determination can only be made upon an examination of the alleged breach and when the aggrieved tenderer had knowledge of the said breach and held:

***66. The answer then to the question when time started to run in the present application can only be reached upon an examination of the breach that was alleged by the 2<sup>nd</sup> Interested Party in its Request for Review, and when the 2<sup>nd</sup> Interested Party had knowledge of the said breach. The said Request for Review was annexed as "Annexure CO4" to the 2<sup>nd</sup> Interested Party's replying affidavit. Paragraphs 2 to 4 of the said Request address the first breach that the 2<sup>nd</sup> Interested Party 's representative, one Charles Obon'go noted and notified the Chairman of the tender opening committee about at the tender opening, namely that the Applicant had not supplied the sample of 3m of the sleeve and mill certificate and had not been issue with a delivery note, and that the said Applicant sought to introduce the sample after the commencement of the tender opening.***

***67. It is not in dispute that the tender opening was on 10<sup>th</sup> November 2017 at 10.00 am, which all the parties attest to in their various affidavits. It is therefore evident that for this particular breach the 2<sup>nd</sup> Interested Party had knowledge of the same and admits to notifying the 1<sup>st</sup> Interested Party's tender opening committee of the same on 10<sup>th</sup> November 2017. Therefore, time for filing a review against this particular alleged breach started to run on 10<sup>th</sup> November 2017, and the Respondent had no***

***jurisdiction to consider the alleged breach when it was included in the Request for Review filed on 21<sup>st</sup> February 2017, as the statutory period of filing for review of 14 days had long lapsed. Any decisions by the Respondent on the alleged breach were therefore ultra vires and null and void.***

113. In the present case, it is not in contest that the Applicant was aware of the contents and provisions of the Tender Document in addition to the mode of submission of bids at the time of obtaining the subject tender advertised on 28<sup>th</sup> November 2025 or before submission of its bid document by the scheduled tender submission deadline of 11<sup>th</sup> December 2025. At paragraph 5 and 6 of the Applicant's Statement in Support of the Request for Review, it states that:

***5. The original Invitation to Tender set the deadline as Wednesday 10th December 2025 at 10:00 AM. Addendum No. 1 (Clarification 5) extended/corrected this deadline to Thursday 11th December 2025. The Tender was indeed opened on 11th December 2025.***

***6. The Applicant elected to participate in Tender No. KPA/005/2025-26/INS for the Provision of Insurance Brokerage Services, by preparing its bid in accordance with the invitation to Tender and Instructions to Tenderers (IIT) in the blank tender document issued by the Respondents to prospective bidders (hereinafter referred to as the "Tender Document").***

***Attached hereto and marked "AN-2" is the Tender Document.***

114. Evidently, the Applicant chose to participate in the subject tender's tendering process and it is only now, after being notified of the outcome of evaluation of the subject tender vide letter dated 12<sup>th</sup> January 2026 that it has opted to challenge (i) the failure by the Respondents to read out bid prices for all tenderers during the tender opening; (ii) mode of submission of bids; (iii) alleged failure by the Respondents to provide the tender opening minutes; and (iv) certain provisions of the Tender Document that it identified to be discriminatory and restrictive contrary to the Constitution, and the Act.

115. In computing time, the Board is guided by Section 57 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya (hereinafter the IGPA) which provides as follows:

***"57. Computation of time***

***In computing time for the purposes of a written law, unless the contrary intention appears—***

***(a) a period of days from the happening of an event or the doing of an act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;***

***(b) if the last day of the period is Sunday or a public holiday or all official non-working days (which days are in this section referred to as excluded days), the period shall include the next following day, not being an excluded day;***

- (c) where an act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;***
- (d) where an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.”***

116. In computing time when the Applicant should have sought administrative review before the Board with respect to challenging the (i) the failure by the Respondents to read out bid prices for all tenderers during the tender opening; (ii) mode of submission of bids; (iii) alleged failure by the Respondents to provide the tender opening minutes; and (iv) certain provisions of the Tender Document that it identified to be discriminatory and restrictive contrary to the Constitution, and the Act, the 28<sup>th</sup> November 2025 is excluded being the day that the Tender Document was advertised and the Applicant learnt of the occurrence of the alleged breach with respect to certain provisions of the Tender Document that it identified to be discriminatory and restrictive contrary to the Constitution, and the Act. This means 14 days started running from 29<sup>th</sup> November 2025 and lapsed on 12<sup>th</sup> December 2025 which fell on a public holiday and as such exempt from computation of time. Noting that 13<sup>th</sup> December

2025 fell on a Saturday being an official non-working day and 14<sup>th</sup> December 2025 fell on a Sunday being an unofficial non-working day, the 14 days statutory period then lapsed on Monday, 15<sup>th</sup> December 2025. In essence, the Applicant had between 29<sup>th</sup> November 2025 to 15<sup>th</sup> December 2025 to seek administrative review before the Board on this allegation.

117. Noting that the Addendum No. 1 in the subject tender was issued on 4<sup>th</sup> December 2025, assuming that the Applicant became aware of the alleged breach of duty pertaining to the provisions of the Tender Document by the Respondents on this date, the 5<sup>th</sup> December 2025 is excluded being the day that the Applicant learnt of the occurrence of the alleged breach with respect to the provisions contained in the Tender Document. This means that 14 days started running from 5<sup>th</sup> December 2025 and lapsed on 18<sup>th</sup> December 2025. In essence, the Applicant had between 5<sup>th</sup> December 2025 and 18<sup>th</sup> December 2025 to seek administrative review before the Board on this allegation.

118. As regards breaches complained of pertaining to the tender opening of the subject tender and the tender opening minutes on 11<sup>th</sup> December 2025, the Applicant being aware of occurrence of the alleged breach of duty by the Respondents on this date, 11<sup>th</sup> December 2025 is excluded being the day that the Applicant learnt of the occurrence of the alleged breach. This means that 14 days started running from 12<sup>th</sup> December 2025 and lapsed on 26<sup>th</sup> December 2025 which was a public holiday thus excluded from computation of time. The next days being Saturday

27<sup>th</sup> December 2025 was an official non-working day and Sunday, 28<sup>th</sup> December 2025 are excluded from computation of time and the 14 days statutory period then lapsed on Monday, 28<sup>th</sup> December 2025. In essence, the Applicant had between 12<sup>th</sup> December 2025 and 28<sup>th</sup> December 2025 to seek administrative review before the Board on this allegation.

119. However, the Applicant opted to raise the aforesaid allegations in the instant Request for Review filed on 26<sup>th</sup> January 2026 and the same are therefore time barred and contrary to Section 167(1) of the Act read with Regulation 203 (2)(c)(i) of regulations 2020 noting that the occurrence of the alleged breach of duty by the Respondents complained of by the Applicant in the aforementioned allegations took place way before the tender closed and an award was made in the subject tender.

120. In the circumstances, the Board finds and holds that the allegations by the Applicant pertaining to (i) the failure by the Respondents to read out bid prices for all tenderers during the tender opening; (ii) mode of submission of bids; (iii) alleged failure by the Respondents to provide the tender opening minutes; and (iv) certain provisions of the Tender Document that it identified to be discriminatory and restrictive contrary to the Constitution, and the Act are time barred for having been raised outside the statutory period of 14 days of occurrence of alleged breach of duty imposed on the Respondents by the Act in accordance with Section 167(1) of the Act read with Regulation

203(2)(c)(i) of Regulations 2020 thus ousting the jurisdiction of the Board only to this extent.

***As to whether the jurisdiction of the Board has been properly invoked on account of the Applicant's failure to join the successful bidders as parties pursuant to Section 170(c) of the Act***

121. Goldfield Insurance Brokers Ltd and Scoreline Insurance Brokers Limited contend in their respective Preliminary Objections that the instant Request for Review as filed is fatally defective for failure by the Applicant to join the successful bidders as parties pursuant to Section 170(c) of the Act thus divesting the Board of its jurisdiction to hear and determine the matter. The Respondents associated themselves with submissions made by the two parties under this limb.

122. In response, the Applicant submitted that whereas it was notified of the outcome of evaluation of the subject tender vide letter dated 12<sup>th</sup> January 2026, it has never been notified of who was successful in the other classes in the subject tender that it participated in and emerged as unsuccessful. It further submitted that Section 170 of the Act does not obligate it to join the interested parties since it only provides a list of who are to be parties to the review proceeding and that in fact, Regulation 205(5) of Regulations 2020 obligates the Board Secretary to notify all other parties to the review upon receipt of requisite documents from the Procuring Entity. The Applicant maintained that the Interested Parties herein had

already identified themselves and moved the Board to be joined in the proceedings, a power that the Board can exercise at any stage of the proceedings so as to ensure a fair hearing.

123. The question that the Board is invited to determine is whether the Applicant's failure to include the successful bidders in the subject tender as parties to the Request for Review renders it defective so as to oust its jurisdiction to hear and determine the instant Request for Review.

124. Section 170 of the Act provides for persons who **must** be parties to the administrative review referred to under Section 167(1) of the Act as follows:

***"170. The parties to a review shall be.***

***(a) the person who requested the review;***

***(b) the accounting officer of a Procuring Entity;***

***(c) the tenderer notified as successful by the Procuring Entity; and***

***(d) such other persons as the Review Board may determine."***

***(Emphasis ours)***

125. In essence, an administrative review must comprise of (a) the candidate or tenderer requesting the review, (b) the accounting officer of a Procuring Entity, (c) the successful tenderer, and (d) such other persons as the Review Board may determine.

126. The Board notes that the mischief that Section 170(c) of the Act intends to cure is to avoid instances where a Request for Review is heard and determined by the Board in the absence of a successful bidder who was neither joined as a party to the Request for Review nor notified of the filing and hearing thereof. Later on, the successful bidder comes to learn of the decision of the Board which may have adversely affected the award made to it. In such an instance, the failure by an aggrieved Applicant to join a successful bidder, or the failure to notify the successful bidder of the hearing interferes with the successful bidder's right to a fair hearing, which is a principle of natural justice provided under Article 50 of the Constitution as follows:

***"Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body."***

127. Further, Article 47 of the Constitution provides for fair administrative action and Article 47(1) provides that:

***"(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair."***

128. Turning to the circumstances in the instant Request for Review, the Board notes that the Applicant, at paragraph 9 of the Applicant's Statement in Support of the Request for Review, annexed the

Respondents letter dated 12<sup>th</sup> January 2026 marked as 'AN-4' which appears to be incomplete since it details an Appendix 1 that basically lists a Schedule of Awards of the Lowest Evaluated Bidders in the subject tender setting out under No. 1 to 11 and 23 to 33 a brief description of Item to be Insured, Insurance Broker, and Awarded Premium. Missing from this list are the Lowest Evaluated Bidders under No. 12 to 22.

129. We have heard the Applicant submit that as at the time of lodging the Request for Review, the Respondents had not disclosed the successful bidders and it is only from these proceedings that it has come to learn of the details pertaining to the successful bidders in the subject tender.

130. The Board notes from its records that when the Respondent submitted to the Board the confidential documents concerning the subject tender pursuant to Section 67(3)(e) of the Act, the Board Secretary, Mr. Kiprop, notified all tenderers in the subject tender on 7<sup>th</sup> February 2026 of the existence of the Request for Review while forwarding to all 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 in the subject tender were invited to submit to the Board any information and arguments concerning the tender within three (3) days.

131. Additionally, the Board Secretary *vide* Hearing Notice dated 5<sup>th</sup> February 2026 and email of 6<sup>th</sup> February 2026 notified parties and all tenderers in the subject tender of an online hearing of the Request for Review slated for 10<sup>th</sup> February 2026 at 2.00 p.m., through the link availed in the said

Hearing Notice. We believe that these communications elicited the responses filed in the instant Request for Review by Goldfield Insurance Brokers Ltd and Scoreline Insurance Brokers Limited not forgetting attendance by representatives from Zamara Risk & Insurance Brokers Ltd and Acentria Insurance Brokers.

132. This Board in its decision in **PPARB Application No. 102 of 2024 Keller Kustoms Kenya Limited vs. Kenya Ports Authority** addressed the issue of joinder of parties as provided under Section 170 of the Act and stated as follows at paragraph 85 and 86 of its Decision with regard to joinder of the successful bidder:

***85. Flowing from above we hold that the parties listed under Section 170 of the Act should as far as is possible be made parties to a Request for Review lest the Request for Review be established as incompetent.***

***86. We say as far as is possible because the Board is also mindful of the fact that there are instances when it may not be possible for an Applicant to indicate the successful bidder as a party to a Request for Review. These include instances when a procurement process has been terminated and there is therefore no successful bidder and in instances where the Procuring Entity has sent a Notification Letter which does not disclose the identity of the successful bidder. In such exceptional cases, it is permissible for a Request for Review***

**to be held as competent notwithstanding the fact that the successful bidder has not been named as a party in the Request for Review. In such instances the Board may pursuant to Section 170(c) of the Act cure the non-joinder using the information supplied to it under Section 63(1) (e) of the Act. Conversely, every candidate or tenderer in a procurement process is presumed to know that every Procuring Entity has an Accounting Officer and that he/she can be joined to proceedings as such.**

133. In view of the above holding, we note that the successful bidders right to a fair hearing under Article 50 and the right to fair administrative action under Article 47 of the Constitution has not been affected in the instant Request for Review in view of the fact that:

a) All bidders including the successful bidders in the subject tender were notified by the Board Secretary of the existence of the instant Request of Review and invited to submit to the Board any information and arguments concerning the subject tender within three (3) days from the date of notification and as such, no prejudice has been occasioned on the successful bidders having been notified in good time and invited to participate in the proceedings before the Board in the instant Request for Review.

b) The purpose of Section 170(c) of the Act has been achieved as evidenced by the participation of bidders who showed interest in the proceedings such as Goldfield Insurance Brokers Ltd and

Scoreline Insurance Brokers Limited who filed their respective pleadings and the attendance by representatives from Zamara Risk & Insurance Brokers Ltd and Acentria Insurance Brokers who followed the proceedings despite not having filed any pleadings in the matter.

134. In view of the foregoing, we find that the Applicant's failure to join the successful bidders to this Request for Review does not make the review application fatally incompetent in this instance where the Applicant has stated that it was not aware of who the successful bidders were following notification and where successful bidders who opted to file their responses to the Request for Review actively participated in these proceedings, thereby exercising its right to a fair hearing under Article 47 and 50 of the Constitution following notification by the Board Secretary.

135. Accordingly, this ground of objection fails.

**Whether the Procuring Entity applied the criteria outlined in the Tender Document in evaluation and award of the subject tender as read with the Constitution, the Act, and Regulations 2020**

136. The Board has heard the Applicant submit that the evaluation and award of bids submitted in the subject tender was not carried out in conformity with the provisions of the Tender Document as read with the Constitution, the Act and Regulations 2020. The Applicant further

submits that award of the subject tender was not objective, lacked quantifiable reason and was opaque.

137. The Applicant indicated that according to the notification letter dated 12<sup>th</sup> January 2026 issued to it by the Respondents, it was successful in three classes of insurance in the subject tender. However, despite being the lowest evaluated bidder under (a) Marine Hull & Machinery Ports; (b) Fire and Special Industrial Risks, Earthquake; (c) Fire & Special Perils, Earthquake and Domestic Package; (d) Group Life Insurance – Others; (e) Group Life (Management); and (f) Public Liability, its tender was bypassed in favor of higher priced bidders by the Respondents without any justification thus causing a major loss of public funds.

138. The Respondents contend that the Evaluation Committee complied with provisions of the Constitution, the Act, Regulations 2020 and the Tender Document in evaluation of bids submitted in the subject tender and that award was strictly made in line with Section 86 of the Act which recognizes multiple bases for award. They argued that the law does not mandate that award be made solely on the basis of the lowest price and that the Tender Document clearly set out the applicable evaluation and award criteria which was followed in full. They pointed out that the Applicant was awarded several insurance classes thus demonstrating that the evaluation process was conducted fairly and in accordance with the provisions of the Act, a fact that fundamentally undermines any suggestion of a flawed evaluation process.

139. On its part, Scoreline Insurance Brokers Limited associated itself with the Respondent's submissions and submitted that the Applicant failed to demonstrate and substantiate that its tender price per the classes of insurance policies were evaluated at all the stages of evaluation and emerged as the successful one with the lowest evaluate price so as to warrant it being issued the orders sought in the instant Request for Review.

140. The Board is alive to the objective of public procurement which is to provide quality goods and services in a system that implements the principles specified in Article 227 of the Constitution which provides as follows:

***"227. Procurement of public goods and services***

***(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.***

***(2) An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following –***

***a) .....d)"***

141. Justice Mativo (as he then was) in **Nairobi High Court Misc. Application No. 60 of 2020; Republic v The Public Procurement Administrative Review Board & another; Premier Verification Quality Services (PVQS) Limited (Interested Party) Ex Parte Tuv Austria Turk [2020] eKLR** (hereinafter referred to as "Misc. Application No. 60 of 2020") spoke to the principles under Article 227 of the Constitution as follows:

***"45. Article 227 of the Constitution provides that when procuring entities contract for goods or services they must comply with the principles of fairness, equity, transparency, competitiveness and cost-effectiveness. For there to be fairness in the public procurement process, all bids should be considered on the basis of their compliance with the terms of the solicitation documents, and a bid should not be rejected for reasons other than those specifically stipulated in the solicitation document.***

***46. However, there is a need to appreciate the difference between formal shortcomings, which go to the heart of the process, and the elevation of matters of subsidiary importance to a level, which determines the fate of the tender. The Evaluation Committee has a duty to act fairly. However, fairness must be decided on the circumstances of each case..."***

142. Section 58 of the Act requires a procuring entity to use a standard tender document which contains sufficient information and provides as follows:

***"(1) An accounting officer of a procuring entity shall use a standard procurement and asset disposal documents issued by the Authority in all procurement and asset disposal proceedings.***

***"(2) The tender documents used by a procuring entity under subsection (1) shall contain sufficient information to allow fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications."***

143. Further Section 60(1) provides as follows:

***"(1) An accounting officer of a procuring entity shall prepare specific requirements relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement proceedings."***

144. In the same vein, section 70 of the Act requires a procuring entity to use a standard tender document which contains sufficient information

to allow for fair competition among tenderers. Section 70(3) reads as follows:

***"(3) The tender documents used by a procuring entity pursuant to subsection (2) shall contain sufficient information to allow fair competition among those who may wish to submit tenders."***

145. Section 80 of the Act is instructive on how evaluation and comparison of tenders should be conducted by a procuring entity as follows:

***"80. Evaluation of tender***

- (1) The evaluation committee appointed by the accounting officer pursuant to Section 46 of the Act, shall evaluate and compare the responsive tenders other than tenders rejected.***
- (2) The evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and, .....***
- (3) The following requirements shall apply with respect to the procedures and criteria referred to in subsection (2)-***

***(a) The criteria shall, to the extent possible, be objective and quantifiable;***

***(b) each criterion shall be expressed so that it is applied, in accordance with the procedures, taking into consideration price, quality, time and service for the purpose of evaluation; and***

***(4) .....***"

146. Section 80(2) of the Act is clear on the requirement for the Evaluation Committee to evaluate and compare tenders in a system that is fair using the procedures and criteria set out in the Tender Document. The Board's interpretation of a system that is fair is one that considers equal treatment of all tenders against criteria of evaluation known by all tenderers having been well laid out in the tender document issued by the procuring entity. Section 80(3) of the Act requires for such evaluation criteria to be as objective and quantifiable to the extent possible and to be applied in accordance with the procedures provided in the tender document.

147. The Board further takes note of Section 86 of the Act that provides for the successful tender as follows:

***"(1) The successful tender shall be the one who meets any one of the following as specified in the tender document—***

***(a) the tender with the lowest evaluated price;***

***(b) the responsive proposal with the highest score determined by the procuring entity by combining, for each proposal, in accordance with the procedures and criteria set out in the request for proposals, the scores assigned to the technical and financial proposals where Request for Proposals method is used;***

***(c) the tender with the lowest evaluated total cost of ownership; or***

***(d) the tender with the highest technical score, where a tender is to be evaluated based on procedures regulated by an Act of Parliament which provides guidelines for arriving at applicable professional charges:***

***Provided that the provisions of this subsection shall not apply to section 141 of this Act.***

***(2) For the avoidance of doubt, citizen contractors, or those entities in which Kenyan citizens own at least fifty-one per cent shares, shall be entitled to twenty percent of their total score in the evaluation, provided the entities or contractors have attained the minimum technical score."***

148. Further, Regulation 77 of Regulations 2020 provides for Financial Evaluation as follows:

***"77. Financial evaluation***

***(1) Upon completion of the technical evaluation under regulation 76 of these Regulations, the evaluation committee shall conduct a financial evaluation and comparison to determine the evaluated price of each tender.***

***(2) The evaluated price for each bid shall be determined by—***

***(a) taking the bid price in the tender form;***

***(b) taking into account any minor deviation from the requirements accepted by a procuring entity under section 79(2)(a) of the Act;***

***(c) where applicable, converting all tenders to the same currency, using the Central Bank of Kenya exchange rate prevailing at the tender opening date;***

***(d) applying any margin of preference indicated in the tender document.***

***(3) Tenders shall be ranked according to their evaluated price and the successful tender shall be in accordance with the provisions of section 86 of the Act.”***

149. From the aforementioned provisions, an evaluation committee while evaluating tenders at the financial evaluation stage is required *inter alia* to rank tenders according to their evaluated bid price and the successful tender shall be determined in accordance with the

provisions of Section 86 of the Act and as specified in the Tender Document.

150. Turning to the instant Request for Review, it is not in contest that the Applicant was notified as being successful in three classes of insurance in the subject tender.

151. Having carefully studied the Tender Document submitted by the 2<sup>nd</sup> Respondent as part of the confidential documents pursuant to Section 67(3)(e) of the Act the Board notes that under Clause 1 of the Invitation to Tender, the subject tender was categorized as follows:

<b><i>CATEGORY</i></b>	<b><i>POLICIES</i></b>
<b><i>Port Package</i></b>	<b><i>Marine Hull, Protection &amp; Indemnity and Port liability, KOT II wet risk.</i></b>
<b><i>Staff policies</i></b>	<b><i>GPA/WIBA, Group Life, D &amp; O liability, GPA Directors, Medical scheme Directors, Medical Scheme Staff, and Travel insurance.</i></b>
<b><i>Asset based and related policies</i></b>	<b><i>Public Liability, Pension Trustees Liability, Hospital Malpractice, Fire &amp; Perils, Political Violence &amp; Sabotage cover, All risks (Electronic), Money, Fidelity Guarantee, G.I.T, Plant/Machinery All Risks, Burglary and Motor Policies.</i></b>

152. We further note that the Schedule of Tendered Items and Prices under Section IV – Tendering Forms at page 52 to 53 of the Tender Document set out the number of items to be insured being a total of 33 classes of insurances.

153. The evaluation procedure and award criteria for the tender subject of this Request for Review is set out at Section III- Evaluation and Qualification Criteria at page 31 to 50 of the Tender Document. Financial Evaluation was provided for at page 47 to 49 of the Tender Document as follows:

".....

***o. Contract will be awarded to successful broker whose tenders will have been determined to be the most technically responsive and lowest evaluated bidder WITHIN the market price range. KENYA PORTS AUTHORITY IS NOT OBLIGATED TO AWARD POLICIES TO THE LOWEST PRICED BIDDER.***

***p. No bidder will be awarded a business volume of more than 50% of the total insurance annual budget/ or gross premium of the all the insurance classes.***

***q. NB: The Insurance broker may be disqualified if the recommended underwriter is financially weak and does not have capacity or has a bad record of not honoring Insurance claims. Strong Insurance and reinsurance Companies with maximum financial and technical capability to handle the policies on repairs and maintenance of risk including The Marine Hull Insurance Policies, Protection and Indemnity (P&I), Ferries Comprehensive, Contractors Plant and Machinery (CPM), and Political Violence and Sabotage (PV&T) and others will be necessary to avert operation downtime due to the Risk exposures involved to ensure adequate coverage, risk mitigation, and operational continuity of port activities.***

.....

***s. KPA recognizes that the most suitable broker to provide brokerage services is one who demonstrates a deep technical understanding of insurance coverage terms and conditions, the insurance and reinsurance industry landscape, and the specific operational requirements of KPA. Evaluation will therefore emphasize the quality and depth of the technical proposal, including the breadth of insurance clauses, recommendations, and the strength of supporting insurers and reinsurers.***

154. Further, the Award Criteria was set out at page 50 of the Tender Document as follows:

***The pass mark for technical evaluation scores will be 80%. Only bidders that have attained this pass mark will have their proposed underwriters evaluated and financial proposals opened for commercial evaluation.***

***Kenya Ports Authority (KPA) recognizes that the best placed broker to provide the brokerage services for the organization is the one that best understands the Insurance cover products, insurance industry and the requirements of the client as represented in quality of the technical proposal.***

***The tender that (I) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and requirements as stipulated on the risk notes (iii) meets the technical criteria including additional values adds and excess/deductibles and is determined to have the Lowest reasonable and approved evaluated Tender price by Insurers & Reinsurer recommendation shall be selected for award of contract.***

***NB: The tender sum and the price schedule as submitted and read out during the tender opening shall be absolute and final and shall not be subject of correction, adjustment or amendment in any way by any person or entity as required by clause 82 of the Public Procurement and Asset Disposal Act, 2015.***

155. In essence, only bidders that attained a pass mark score of 80% under the technical evaluation would have their proposed underwriters evaluated and financial proposals opened for commercial evaluation. To be selected for award, a tender had to (a) meet the qualification criteria, (b) be determined to be substantially responsive to the Tender Documents, and requirements as stipulated on the risk notes (c) met the technical criteria including additional values adds and excess/deductibles and be determined to have the lowest reasonable and approved evaluated tender price by Insurers & Reinsurer recommendation. Notably, a contract would be awarded to a successful bidder whose tender was determined to be the most technically responsive and lowest evaluated bidder within the market price range and the Procuring Entity was not obligated to award policies to the lowest price bidder. Additionally, a bidder stood the chance of being disqualified if its recommended underwriter was financially weak and did not have capacity or had a bad record of not honoring insurance claims.

156. The issue in contention herein relates to the question of whether the Procuring Entity's Evaluation Committee applied the criteria outlined in the Tender Document in evaluation and award of the subject tender

at the Financial Evaluation stage in view of the allegation by the Applicant that it ought to have been awarded under several classes of insurance tendered for where its financial bid was lower as compared to the successful bidder awarded therein.

157. According to the Evaluation Report submitted to the Board as part of the confidential documents by the 2<sup>nd</sup> Respondent, 14 bidders progressed for Financial Evaluation having attained the pass mark score of 80%. The Evaluation Committee states that it tabulated, analyzed, and compared all prices/ rates quoted by the 14 bidders per tendered policy together with the quotations from their respective underwriters being guided by the Financial Evaluation Criteria at page 47 to 49 of the Tender Document and that the most responsive lowest evaluated bidder per policy was considered. The Evaluation Committee then proceeded to recommend award of the subject tender to 12 bidders as follows:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b><i>No of item to be insured</i></b>	<b><i>Brief description of item to be insured</i></b>	<b><i>Insurance broker</i></b>	<b><i>Underwriter</i></b>	<b><i>Premium amount</i></b>	<b><i>Remarks</i></b>
<b><i>No 1</i></b>	<b><i>Marine Hull &amp; Machinery Ports</i></b>	<b><i>Liaison Insurance Brokers Ltd</i></b>	<b><i>Mayfair Insurance Co. Ltd</i></b>	<b><i>\$555,755.00</i></b>	<b><i>Recommended for being the most responsive lowest evaluated bidder</i></b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 2</b>	<b>Protection &amp; Indemnity Ports</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$44,825.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 3</b>	<b>Marine Hull Insurance &amp; Protection and Indemnity Ferries</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>\$1,097,947.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 4</b>	<b>Ports and Terminal Operators Liability- Mombasa &amp; Lamu</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$887,959.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 5</b>	<b>Comprehensive Machinery /Plant Machinery All Risks</b>	<b>Acentria Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 196,937,262.30</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 6</b>	<b>Fire and Special Industrial Risks, Earthquake</b>	<b>SHIV Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 62,000,001.33</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 7</b>	<b>Fire &amp; Perils, Earthquake Con Loss</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 13,414,516.25</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 8</b>	<b>Fire and Perils, Earthquake (Substation)</b>	<b>Transnep Insurance Brokers</b>	<b>GA Insurance Ltd</b>	<b>Kshs. 4,178,164.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 9</b>	<b>Fire &amp; Special Perils, Earthquake and Domestic Package.</b>	<b>Peace of Mind Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 3,807,599.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 10</b>	<b>Political Violence, Terrorism and Sabotage</b>	<b>Acentria Insurance Brokers</b>	<b>GA Insurance Ltd</b>	<b>\$699,645.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 11</b>	<b>GPA /WIBA</b>	<b>Zamara Risk &amp; Insurance Brokers Ltd</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 85,226,334.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 12</b>	<b>GPA Directors</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 67,301.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 13</b>	<b>Medical Scheme for Directors</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 954,923.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 14</b>	<b>Group Life Insurance- Others</b>	<b>Scoreline Insurance Brokers</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Kshs. 181,370,934.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 15</b>	<b>Group Life (Management)</b>	<b>Transnep Insurance Brokers</b>	<b>Britam Life Assurance Co. Ltd</b>	<b>Kshs. 32,007,163.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 16</b>	<b>Public Liability</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 401,840.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 17</b>	<b>Directors and Officers Liability</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 843,820.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 18</b>	<b>Medical Insurance- Eldoret Staff</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 772,007.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 19</b>	<b>Motor commercial comprehensive Institutional Vehicles (Buses)</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 1,349,677.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 20</b>	<b>Motor Commercial Comprehensive Special Types (Ambulances and Fire Engines)</b>	<b>Disney Insurance Brokers</b>	<b>APA Insurance Co. Ltd</b>	<b>Kshs. 8,220,558.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 21</b>	<b>Motor Trade (Road Risks) Third Party Only</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 22</b>	<b>Motorcycle-Comprehensive</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 9,456.00</b>	<b>Recommended for being the most responsive lowest</b>
<b>No 23</b>	<b>Motor Private Comprehensive-Saloon Cars</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 4,818,130.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 24</b>	<b>Motor Commercial Own Goods-Lorries</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 1,382,028.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 25</b>	<b>Motor Commercial Own Goods Pick ups</b>	<b>Plan &amp; Place Insurance Brokers</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 6,010,347.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 26</b>	<b>Hospital Malpractice cover</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 652,965.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 27</b>	<b>Fidelity guarantee cover</b>	<b>Pelican Insurance Brokers</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Kshs. 452,065.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 28</b>	<b>Money Policy</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>Kshs. 12,697.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No 29</b>	<b>Goods in Transit</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>
<b>No 30</b>	<b>Burglary (Stock)</b>				<b>Recommended for competitive negotiation or any other economical remedy</b>
<b>No 31</b>	<b>All Risk-Electronic Equipment's)</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 1,900,000.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>No of item to be insured</b>	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Underwriter</b>	<b>Premium amount</b>	<b>Remarks</b>
<b>No 32</b>	<b>Travel Insurance</b>	<b>Goldfield Insurance Brokers Ltd</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kshs. 5000.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>No.33</b>	<b>KOT II Wet Risk</b>	<b>Liaison Insurance Brokers Ltd</b>	<b>Mayfair Insurance Co. Ltd</b>	<b>\$ 652,296.00</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

158. From the above, we note that several classes of insurance were recommended for competitive negotiations being:

- i. Class 21 for Motor Trade (Road Risks) Third Party Only
- ii. Class 29 for Goods in Transit
- iii. Class 30 for Bulglary (Stock)

159. According to the Competitive Negotiation Report submitted to the Board as part of the confidential documents, we note that the Evaluation Committee recommended competitive negotiations in the above mentioned three (3) classes of insurance since several bidders had tied in price. Subsequently, ten (10) bidders were invited to submit their best and final price for the said policies in line with section 131 and 132 of the Act and out of the six (6) bidders who responded, the Evaluation Committee compared their prices as follows:

<b>BIDDER NO</b>		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
	<b>NAME</b>	<b>Stansfeld Insurance Brokers Limited</b>	<b>Scoreline Insurance Brokers Limited</b>	<b>Kenbright Insurance Brokers Limited</b>	<b>Goldfield Insurance Brokers Limited</b>	<b>Acentria Insurance Brokers Limited</b>	<b>Pelican Insurance Brokers Limited</b>
	<b>Description of Item to be insured</b>						
<b>21</b>	<b>Motor trade (Road risks) Third party only</b>	<b>24,851</b>		<b>24,451</b>			
<b>29</b>	<b>Goods in Transit</b>		<b>477,178</b>	<b>477,178</b>		<b>421,930</b>	<b>477,178</b>
<b>30</b>	<b>Burglary (Stock)</b>	<b>11,949</b>		<b>11,550</b>	<b>11,949</b>		

160. The Evaluation Committee then proceeded to recommend award for each of the three policies as follows:

<b>Policy No.</b>	<b>Description of Item to be insured</b>	<b>Insurance broker</b>	<b>Recommended Bidder</b>	<b>Quoted Price (best and final price)</b>	<b>Remarks</b>
<b>21</b>	<b>Motor trade (Road risks)</b>	<b>CIC General</b>	<b>Kenbright Insurance Brokers Limited</b>	<b>24,451</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

	<b>Third party only</b>	<b>Insurance Co. Ltd</b>			
<b>29</b>	<b>Goods in Transit</b>	<b>Britam General Insurance Co. Ltd</b>	<b>Acentria Insurance Brokers Limited</b>	<b>421,930</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>
<b>30</b>	<b>Burglary (Stock)</b>	<b>CIC General Insurance Co. Ltd</b>	<b>Kenbright Insurance Brokers Limited</b>	<b>11,550</b>	<b>Recommended for being the most responsive lowest evaluated bidder</b>

161. In establishing if there was opaqueness and unfairness in how the Evaluation Committee recommended award of the various classes of insurance in the subject tender as alleged by the Applicant in the instant Request for Review, the Board has carefully perused the confidential documents furnished by the 2<sup>nd</sup> Respondent and made a comparison of all the bids and award made under the different classes of insurance. The Board has observed certain discrepancies in 11 out of the 33 classes of insurance awarded in the subject tender as detailed below:

1	2	3	4	5
	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Premium amount</b>	<b>Board's Remarks</b>
No 5	Comprehensive Machinery /Plant Machinery All Risks	Acentria Insurance Brokers	Kshs. 196,937,262.30	Liason was the lowest evaluated bidder with a quote of Kshs. 108,725,026.00
No 7	Fire & Perils, Earthquake Con Loss	Zamara Risk & Insurance Brokers Ltd	Kshs. 13,414,516.25	Awarded despite the comment below which is noted immediately after the amount. "Indemnity period less than 18 months in than in the tender."

1	2	3	4	5
	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Premium amount</b>	<b>Board's Remarks</b>
No 10	Political Violence, Terrorism and Sabotage	<p>Acentria Insurance Brokers at \$699,645 is Most responsive in terms of the limits provided, enhanced terms, indemnity period as per the tender document and excess is 7 days as oppose to 14 days provided by the other bidders.</p> <p>In addition, the indemnity period is in line with the tender requirement of 18 months</p> <p>Contra distinguish with Item number 7</p>	\$699,645.00	<p>Zamara is the lowest evaluated bidder with the following rider verbatim. \$560,245.5 (the sub limits and the excess period is 14 days as opposed to 7 days in the tender document. Lastly, the indemnity is 12 months while tender documents required 18 months.</p> <p>Accentria \$699,645 Most responsive in terms of the limits provided, enhanced terms, indemnity period as per the tender document and excess is 7 days as oppose to 14 days provided by the other bidders. In addition, the indemnity period is in line with the tender requirement of 18 months</p>

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Premium amount</b>	<b>Board's Remarks</b>
No 12	GPA Directors	Liaison Insurance Brokers Ltd	Kshs. 67,301.00	Lowest evaluated bidders were 4; Peace of Mind, Plan & Place, Stansfield, Gold field and Kenbright at  Ksh33,791.00
No 14	Group Life Insurance- Others	Scoreline Insurance Brokers	Kshs. 181,370,934.00	Pelican was the lowest evaluated bidder with a quote of Kshs.  Ksh118,786,015.00
No 15	Group Life (Management )	Transnep Insurance Brokers	Kshs. 32,007,163.00	Liason was the lowest evaluated bidder with a quote of  Ksh. 14,031,153.00
No 20	Motor Commercial Comprehensive Special Types (Ambulances	Disney Insurance Brokers	Kshs. 8,220,558.00	A Plan submitted an identical quotation; however, it was not awarded the contract, and no reason was provided. -

1	2	3	4	5
	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Premium amount</b>	<b>Board's Remarks</b>
No. 21	Motor Trade (Road Risks) Third Party Only	Kenbright Insurance Brokers	Kshs. 24,451.00	Actual bid was 26,157.00 and similar to all the bidders in this category ie. Peace of Mind, Plan & Place, Stansfield, Kenbright and Transnep
No 29	Goods in Transit	Acentria Insurance Brokers Ltd	Kshs. 421,930.00	The actual bid for Acentria is Ksh. 627,853.00 while Liason was the lowest evaluated bidder with a quote of Ksh. 301,390.00
No 30	Burglary (Stock)	Kenbright Insurance Brokers Ltd	Kshs. 11,550.00	The actual bid for Kenbright is Ksh. 12,576.00 which was the same bid by Peace of Mind, Plan & Place, Stansfield, Goldfield & Kenbright

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
	<b>Brief description of item to be insured</b>	<b>Insurance broker</b>	<b>Premium amount</b>	<b>Board's Remarks</b>
No 31	All Risk- Electronic Equipment's)	Goldfield Insurance Brokers Ltd	Kshs. 1,900,000.00	Pelican was the lowest evaluated bidder with a quote of  Ksh. 1,660,880.00

162. From the foregoing, the Board notes various discrepancies as to award of the above eleven (11) classes of insurance out of the thirty three (33) in the subject tender following Financial Evaluation in that:

- i. Certain bids bore higher tender prices and were awarded instead of award being made to the lowest evaluated bidder;
- ii. No explanation or compelling reason has been rendered as to why the Evaluation Committee waived award to the lowest evaluated bidder and instead opted to award a bid with a higher price quote.
- iii. A Plan for example submitted an identical quotation with that of Disney Insurance Brokers; however, it was not awarded the contract, no justification was provided, and no steps of competitive negotiations were undertaken.

- iv. In the classes where competitive negotiations were conducted, further price ties were observed; however, there is no evidence on record of any additional tie breaking measures having been applied, and the awards were consequently made without a clear or documented rationale.

163. The Board notes that the Evaluation Committee is under a duty to confine itself to the procedures and criteria set out in the Tender Document when evaluating bids while maintaining clarity in the step and process used to arrive at the successful and the same clarity be communicated to the bidders adequately .

164. The Board further observes, with respect to Classes/Lot Numbers 12, 14 and 15 noted in the table above relating to staff policies, that although an explanation appears to have been provided in the Evaluation Report and in this decision paragraph 12 regarding the basis of recommendation, the same cannot be clearly deduced or reconciled from the Financial Evaluation tabulation presented to the Board. Consequently, it is not readily apparent from the financial schedules how the recommended bidders emerged over other bidders whose quoted premiums appear lower, a position that is particularly material given that Britam Life Assurance Co. Ltd was indicated as the sole underwriter for the impugned classes.

165. Notwithstanding the discrepancies noted above, the Board has elected not to expunge Classes/Lot Numbers 12, 14, and 15 relating to staff policies. As noted at paragraph 164, Britam Life Assurance Co.

Ltd was the sole successful underwriter at the technical evaluation stage for the impugned classes. The Board recognizes that no alternative underwriter, or its broker, could have been awarded these classes and that, although the financial Evaluation tabulation lacks full clarity, the evaluation and recommendation of the said bidders do not materially prejudice other bidders or undermine the integrity of the procurement process with respect to these classes. Accordingly, these classes are retained, and the awards therein are not set aside.

166. In view of the foregoing, this Board is left with the inevitable conclusion that the Evaluation Committee introduced extraneous criteria/o at the Financial Evaluation stage with regard to Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender and therefore the Procuring Entity failed to evaluate and award bids at the Financial Evaluation stage for the said classes of insurance in accordance with the procedures and criteria set out in the Tender Document.

167. In the circumstances, the Board finds that the Procuring Entity's Evaluation Committee went outside the evaluation criteria contained in its own Tender Document in the evaluation of bids with regard to Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender at the Financial Evaluation stage and holds the Procuring Entity in breach of the provisions of the Tender Document, as read with the Act and Regulations 2020.

**As to whether the Letter of Notification of Intention to Award dated 12<sup>th</sup> January 2026 issued to the Applicant met the threshold required in Section 87(3) of the Act as read with Regulation 82 of Regulations 2020.**

168. Section 87 of the Act is instructive on how notification of the outcome of evaluation of the successful and unsuccessful tenderers should be conducted by a procuring entity and provides as follows:

Section 87 - Notification of intention to enter into a contract:

***"(1) Before the expiry of the period during which tenders must remain valid, the accounting officer of the procuring entity shall notify in writing the person submitting the successful tender that his tender has been accepted.***

***(2) The successful bidder shall signify in writing the acceptance of the award within the time frame specified in the notification of award.***

***(3) When a person submitting the successful tender is notified under subsection (1), the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful, disclosing the successful tenderer as appropriate and reasons thereof.***

***(4) For greater certainty, a notification under subsection (1) does not form a contract nor reduce the validity period for a tender or tender security.”***

169. Section 87 recognizes that notification of the outcome of evaluation of a tender is made in writing by an accounting officer of a procuring entity. Further, the notification of the outcome of evaluation ought to be done simultaneously to the successful tenderer(s) and the unsuccessful tenderer(s). A disclosure of who is evaluated as the successful tenderer is made to the unsuccessful tenderer with reasons thereof in the same notification of the outcome of evaluation.

170. The procedure for notification under Section 87(3) of the Act is explained by Regulation 82 of Regulations 2020 which provides as follows:

***"82. Notification of intention to enter into a contract***

***(1) The notification to the unsuccessful bidder under Section 87(3) of the Act, shall be in writing and shall be made at the same time the successful bidder is notified.***

***(2) For greater certainty, the reason to be disclosed to the unsuccessful bidder shall only relate to their respective bids.***

***(3) The notification in this regulation shall include the name of the successful bidder, the tender price and the reason why the bid was successful in accordance with Section 86(1) of the Act.”***

171. In view of the provisions of Section 87 of the Act read with Regulation 82 of Regulations 2020, the Board observes an accounting officer of a Procuring Entity must notify, in writing, the tenderer who submitted the successful tender, that its tender was successful before the expiry of the tender validity period. Simultaneously, while notifying the successful tenderer, an accounting officer of a Procuring Entity notifies other unsuccessful tenderers of their unsuccessfulness, giving reasons why such tenderers are unsuccessful, disclosing who the successful tenderer is, why such a tenderer is successful in line with Section 86(1) of the Act and at what price is the successful tenderer awarded the tender. These reasons and disclosures are central to the principles of public procurement and public finance of transparency and accountability enshrined in Article 227 and 232 of the Constitution. This means all processes within a public procurement system, including notification to unsuccessful tenderers must be conducted in a transparent manner.

172. In **Judicial Review Miscellaneous Application No. 531 of 2015, Republic v Public Procurement Administrative Review**

**Board & 2 others ExParte Akamai Creative Limited** (hereinafter referred to as "the Akamai Case") the High Court held as follows:

***"In my view, Article 47 of the Constitution requires that parties to an administrative proceeding be furnished with the decision and the reasons thereof within a reasonable time in order to enable them decide on the next course of action. It is not merely sufficient to render a decision but to also furnish the reasons for the same. Accordingly, where an administrative body unreasonably delays in furnishing the parties with the decision and the reasons therefor when requested to do so, that action or inaction may well be contrary to the spirit of Article 47 aforesaid"***

173. From the above case, the Board observes that the High Court was basically expounding on one of the rules of natural justice as provided for in Article 47 (2) of the Constitution which provides:

***"If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action"***

174. Basically, the rules of natural justice as provided for in Article 47 of the Constitution require that a procuring entity promptly notifies tenderers of the outcome of evaluation to afford an unsuccessful tenderer the opportunity to challenge such reasons if need be. Further,

the Act does not require that an unsuccessful tenderer to seek clarification in order for the accounting officer to provide it with the outcome of evaluation or reasons leading to its disqualification in a tendering process.

175. The Board has heard the Applicant submit that as at the time of lodging the Request for Review, the Respondents had not disclosed the successful bidders and it is only from these proceedings that it has come to learn of the details pertaining to the successful bidders in the subject tender.

176. The Board notes that the Applicant, at paragraph 9 of the Applicant's Statement in Support of the Request for Review, annexed the Respondents letter dated 12<sup>th</sup> January 2026 marked as 'AN-4' which appears to be incomplete since it details an Appendix 1 that basically lists a Schedule of Awards of the Lowest Evaluated Bidders in the subject tender setting out under No. 1 to 11 and 23 to 33 a brief description of Item to be Insured, Insurance Broker, and Awarded Premium. Missing from this list are the Lowest Evaluated Bidders under No. 12 to 22.

177. Further, the Applicant submitted that despite not having been awarded in (i) Marine Hull & Machinery Ports, (ii) Fire and Special Industrial Risks, Earthquake, (iii) Fire & Special Perils, Earthquake and Domestic Package, (iv) Group Life Insurance-Others, (v) Group Life (Management), and (vi) Public Liability, it was not issued with reasons

why its bid was rendered unresponsive by the Respondents contrary to Section 87(3) of the Act.

178. Interestingly, Goldfield Insurance Brokers Ltd, one of the successful bidders who participated in the review proceedings annexed to its pleadings a complete notification letter dated 12<sup>th</sup> January 2026 issued to it by the Respondents where on the first page it is notified of award as per the attached Appendix I at its quoted premiums as follows:

***APPENDIX I – Awarded Policies to M/s Goldfield Insurance Brokers Ltd***

<b><i>No.</i></b>	<b><i>Policy No.</i></b>	<b><i>Policy Type/Class of Insurance</i></b>	<b><i>Underwriter</i></b>	<b><i>Premium Amount</i></b>
<b><i>1</i></b>	<b><i>03</i></b>	<b><i>Marine Hull Insurance &amp; Protection and Indemnity Ferries</i></b>	<b><i>CIC General Insurance Co. Ltd</i></b>	<b><i>\$ 1,097,947.00</i></b>
<b><i>2</i></b>	<b><i>31</i></b>	<b><i>All Risk – Electronic Equipment’s</i></b>	<b><i>CIC General Insurance Co. Ltd</i></b>	<b><i>Kes. 1,900,000.00</i></b>
<b><i>3</i></b>	<b><i>32</i></b>	<b><i>Travel Insurance</i></b>	<b><i>CIC General Insurance Co. Ltd</i></b>	<b><i>Kes 5,000.00</i></b>

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179. Having carefully studied the notification letters issued to the Applicant and Goldfield Insurance Brokers Ltd, we note that despite the Respondents listing the classes of insurance awarded in the subject tender, they fail to indicate classes where the bidder's bid was unsuccessful, reasons why it was considered unsuccessful, the successful bidder in the said class and reasons why it was considered.

180. It is therefore quite clear to the Board that the Respondents Letter of Notification of Intention to Award the subject tender dated 12<sup>th</sup> January 2026 issued to the Applicant failed to meet the threshold required in Section 87(3) of the Act read with Regulation 82(3) of Regulations 2020.

181. Accordingly, this ground of review succeeds and is allowed.

### **As to what orders should the Board grant in the circumstances**

182. The Board has found that the allegations by the Applicant pertaining to (i) the failure by the Respondents to read out bid prices for all tenderers during the tender opening; (ii) mode of submission of bids; (iii) alleged failure by the Respondents to provide the tender opening minutes; and (iv) certain provisions of the Tender Document that it identified to be discriminatory and restrictive contrary to the Constitution, and the Act are time barred for having been raised outside the statutory period of 14 days of occurrence of alleged breach of duty imposed on the Respondents by the Act in accordance with Section

167(1) of the Act read with Regulation 203(2)(c)(i) of Regulations 2020 thus ousting the jurisdiction of the Board only to this extent.

183. The Board has also found that the Applicant's failure to join the successful bidders to this Request for Review does not make the review application fatally incompetent in this instance where the Applicant has stated that it was not aware of who the successful bidders were following notification and where successful bidders who opted to file their responses to the Request for Review actively participated in these proceedings, thereby exercising its right to a fair hearing under Article 47 and 50 of the Constitution following notification by the Board Secretary.

184. The Board has established that that the Respondents Letter of Notification of Intention to Award the subject tender dated 12<sup>th</sup> January 2026 issued to the Applicant failed to meet the threshold required in Section 87(3) of the Act read with Regulation 82(3) of Regulations 2020.

185. The Board has also established that the Procuring Entity failed to evaluate and award bids under Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender at the Financial Evaluation stage in accordance with the procedures and criteria set out in the Tender Document. In determining the appropriate orders to grant in the circumstances, the Board observes that Section 173(b) of the Act

gives the Board a discretionary power to *"give directions to the accounting officer of a procuring entity with respect to anything to be done or redone in the procurement or disposal proceedings."*

186. As such, the Board deems it just and fair to order the 2<sup>nd</sup> Respondent to direct the Evaluation Committee to re-admit the Applicant's tender and all other tenders that progressed to the Financial Evaluation stage under Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender and proceed with financial evaluation of both the Applicant's tender and all other tenders that progressed to the financial evaluation stage under the listed classes while taking into consideration the findings of the Board in this decision, the provisions of the Tender Document, the Constitution, the Act and Regulations 2020.

187. The upshot of our findings is that the instant Request for Review succeeds in the following specific terms, subject to the right of any person aggrieved with this decision to seek judicial review by the High Court within fourteen days pursuant to Section 175 of the Act.

## **FINAL ORDERS**

188. 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 instant Request for Review:

- A. Ground 5 of the Preliminary Objection raised by Goldfield Insurance Brokers Ltd and Ground 2 of the Preliminary Objection raised by Scoreline Insurance Brokers Limited be and are hereby dismissed.**
- B. Grounds 7 and 8 of the Preliminary Objection raised by Goldfield Insurance Brokers Ltd and Ground 1 of the Preliminary Objection raised by Scoreline Insurance Brokers Limited be and are hereby allowed.**
- C. The letters of Notification of Intention to Award Tender No. KPA/005/2025-26/INS for Provision of Insurance Brokerage Services for the Period 1<sup>st</sup> February 2026 to 31<sup>st</sup> January 2029 issued by the 2<sup>nd</sup> Respondent to the Applicant, successful bidders and all other unsuccessful bidders in regard to Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender be and are hereby nullified and set aside.**
- D. The 2<sup>nd</sup> Respondent is hereby ordered to direct the Evaluation Committee of the Procuring Entity to re-admit the Applicant's tender and all other tenders that progressed to the Financial Evaluation stage under Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender and proceed with financial evaluation of both the Applicant's tender and all other tenders that progressed to the financial evaluation stage under the listed classes while taking into consideration**

**the findings of the Board in this decision, the provisions of the Tender Document, the Constitution, the Act and Regulations 2020.**

**E. The 2<sup>nd</sup> Respondent is directed to complete the procurement process, including the making of an award, under Classes of Insurance Numbers 5, 7, 10, 20, 21, 29, 30, and 31 of the subject tender of the subject tender within 21 days of this decision taking into consideration the findings of the Board herein.**

**F. For the avoidance of doubt, this Decision shall not affect the actions already taken by the Procuring Entity with regard to the other Classes of Insurance under the subject tender not listed in Order (E) hereinabove, and the procurement process in respect thereof shall proceed to its logical conclusion.**

**G. Considering that the procurement process is not complete each party shall bear its own costs in this Request for Review.**

**Dated at NAIROBI this 16<sup>th</sup> Day of February 2026.**

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**PANEL CHAIRPERSON**

**SECRETARY**

**PPARB**

**PPARB**