

FORM BOF8

r.17

DISCREPANCY REPORTING

[Section 93 of the Companies Act, 2015]

Name of company:
 Number of company:
 Nature of Discrepancy

Lodged on behalf of the company by:	
Name:	
ID/ Passport number	
Address:	
Signature:	
Capacity***:	
Source****:	
Date:	

10. The Second Schedule to the principal Regulations is amended by inserting the following new fee—

Beneficial Ownership Search Request ksh 600

Made on the 18th October, 2023.

J. B. N. MUTURI,
Attorney-General.

LEGAL NOTICE NO. 163

THE LIMITED LIABILITY PARTNERSHIP ACT

(No. 42 of 2011)

IN EXERCISE of the powers conferred by section 35 of the Limited Liability Partnership Act, 2011, the Attorney-General makes the following Regulations—

THE LIMITED LIABILITY PARTNERSHIP (BENEFICIAL OWNERSHIP INFORMATION) REGULATIONS, 2023

1. These Regulations may be cited as the Limited Liability Partnership (Beneficial Ownership Information) Regulations, 2023. Short title.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“Act” means the Limited Liability Partnership Act, 2011;

“arrangement” refers to an artificial entity, without legal personality, associating one or more natural or legal persons together in an ownership or control relationship, but without implying that the parties to this arrangement have any other form of collective legal identity;

“beneficial owner” has the meaning assigned to it under the Companies Act, 2015; No. 17 of 2015.

“competent authority” means the Attorney-General, any criminal investigation agency established by law, law enforcement agencies, authorities that supervise and monitor the financial sector, including the Financial Reporting Centre and the Kenya Revenue Authority;

“designated non-financial businesses or professions” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009; No. 9 of 2009.

“family” means—

- (a) the beneficial owner’s spouse;
- (b) a child or step-child of the beneficial owner;
- (c) a child or step-child of the beneficial owner’s spouse who lives with the beneficial owner and has not reached eighteen years of age;
- (d) a parent of the beneficial owner;
- (e) a brother or sister to the beneficial owner;
- (f) a brother or sister to the spouse of the beneficial owner;
- (g) a grandchild of the beneficial owner; or
- (h) a spouse of any of the persons specified in paragraphs (b), (e), (f) and (g);

“financial institutions” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009;

“joint arrangement” means an arrangement between the holders of shares or rights in a company that they exercise all or substantially all the rights conferred by their respective shares or rights jointly in a manner that is pre-determined by the arrangement;

“material discrepancy” means factual errors that could significantly alter the status or identity of a beneficial owner but this does not include typing mistakes or spelling errors;

“nominee partner” has the meaning assigned to it under section 2 of the Act;

“protected personal identifiable information” includes—

- (a) birth certificate number, national identity card number or passport number;
- (b) personal identification number;
- (c) date of birth;
- (d) residential address;
- (e) telephone number; and
- (f) email address;

“Public Procurement Regulatory Authority” has the meaning assigned to it under the Public Procurement and Asset Disposal Act, 2015; No. 33 of 2015.

“Public Private Partnership Committee” has the meaning assigned to it under the Public Private Partnership Act, 2013; No. 15 of 2013.

“Registrar” means the Registrar of Companies appointed under section 831 of the Companies Act, 2015; No. 17 of 2015.

“significant control” includes control that can be exercised through—

- (a) a right to direct or veto investment decisions of the limited liability partnership;
- (b) a right to participate in the capital returns of the partnership’s funds or assets;
- (c) a right to direct amendment of the partnership’s constitutional documents or partnership agreement;
- (d) a right to dissolve or convert the partnership;
- (e) positions held within the partnership such as being responsible in the strategic decisions that affect business practices or general direction of the partnership including senior managing official;
- (f) informal means such as through family or associates or in cases where the individual is using, enjoying, or benefiting from the assets owned by the partnership; and

“significant influence” means the power to participate in the operating and financial policies of a limited liability partnership without necessarily having full control over them.

3. (1) In accordance with section 31B of the Act, every limited liability partnership shall keep a register of its beneficial owners. Beneficial owner.

(2) For the purpose of these Regulations, a beneficial owner of a limited liability partnership shall be a natural person who meets any of the following conditions, whether individually or jointly with others, in relation to the limited liability partnership—

- (a) holds a right to share in at least ten percent of the capital contribution or profits of the limited liability partnership either directly or indirectly;
- (b) holds at least ten percent of the voting rights in the conduct and management of the limited liability partnership whether directly or indirectly;
- (c) has a right to appoint or remove any partner or a manager; or
- (d) exercises significant influence or control, directly or indirectly, over the limited liability partnership.

(3) Where two or more natural persons—

- (a) hold a right jointly; or
- (b) have a joint arrangement relating to rights held, each of such persons shall, for the purposes of sub regulation (2) be treated as a beneficial owner.

4. (1) A limited liability partnership shall take reasonable steps to identify its beneficial owners, verify, validate and enter in its register of beneficial owners the following particulars in respect of its beneficial owner—

Beneficial owner particulars.

- (a) full name;
- (b) birth certificate number, national identity card number or passport number;
- (c) personal identification number;
- (d) nationality;
- (e) date of birth;
- (f) postal address;
- (g) business address;
- (h) residential address;
- (i) telephone number;
- (j) email address;
- (k) occupation or profession;
- (l) nature of control or influence;
- (m) the date on which any person became a beneficial owner of the limited liability partnership;
- (n) the date on which any person ceased to be a beneficial owner of the limited liability partnership; and
- (o) any other relevant detail the Registrar may, from time to time, require.

(2) The information on the nature of control or influence referred to in sub regulation 4(1)(l) shall be as specified in regulation 3(2).

5. (1) A limited liability partnership shall lodge with the Registrar, a copy of its register of beneficial owners in Form LBOF1 set out in the First Schedule in accordance with section 31B of the Act.

Verification and filing of beneficial ownership information.

(2) A limited liability partnership shall lodge with the Registrar, particulars of change of beneficial owners in Form LBOF2 set out in the First Schedule and shall pay the fees set out in the Second Schedule.

(3) Where there is a new beneficial owner, the limited liability partnership shall update its beneficial ownership register and file a notice of any new beneficial owner with the Registrar in Form LBOF3 set out in the First Schedule.

(4) A limited liability partnership shall lodge with the Registrar a notice of a person ceasing to be a beneficial owner in Form LBOF4 set

out in the First Schedule in accordance with section 31B and pay the fees set out in the Second Schedule.

(5) The limited liability partnership shall take reasonable measures to verify and validate any information filed with the Registrar under this regulation.

6. (1) A limited liability partnership shall give notice to a person it knows or has reasonable cause to believe that the person is its beneficial owner, requiring the person to provide the particulars set out in regulation 4.

Duty to investigate, obtain and verify beneficial ownership particulars.

(2) A person who receives a notice under this regulation shall comply with the requirements of the notice not later than twenty-one days from the date of the notice.

(3) A person who receives a notice under sub-regulation (1) is not required to disclose any information in respect of which the court has directed not be disclosed.

7. (1) Any person, whether formally or informally, acting as a nominee partner, shall disclose to the limited liability partnership, their status as a nominee pursuant to section 31C and provide the particulars of the nominator.

Nominee partners.

(2) A limited liability partnership shall, upon receipt of the notice in sub-regulation (1), prepare a register of nominees and lodge with the Registrar, the nominee status of each disclosed nominee.

(3) The limited liability partnership shall—

- (a) where the nominator is a natural person, enter the names of the nominator in the register of beneficial owners and file a copy of thereof pursuant to these regulations; and
- (b) where the nominator is a legal person, enter the particulars of the beneficial owners of the legal person in the register of the beneficial owner,

and submit a copy of the register of beneficial owners, register of nominees and any change thereof, in accordance with the provisions of the Act and these Regulations.

(4) The Registrar shall put an asterisk to the names of partners who are nominees in the register of partners.

8. A limited liability partnership shall issue a warning notice to a person who fails to comply with the provisions of regulation 6 or 7 and keep a copy of the warning notice in its register of beneficial owners.

Warning notice.

9. A warning notice issued under regulation 8 shall—

- (a) specify the date on which the warning notice is issued and the date of compliance;
- (b) be accompanied by a copy of the notice issued under regulation 6;

Content of a warning notice.

- (c) require the person to comply with the notice issued under regulation 6;
- (d) state that it is proposing to restrict the rights the person holds in the limited liability partnership; and
- (e) explain the effect of the restriction.

10. (1) A limited liability partnership shall restrict the rights of a person if the person has not complied with the warning notice within fourteen days from the date of the warning notice.

Restriction of rights for non-compliance.

(2) A limited liability partnership shall make a note in the limited liability partnership's register to indicate the restriction issued under sub regulation (1).

(3) A limited liability partnership shall file a copy of the restriction issued under this regulation with the Registrar within fourteen days from the date of the issuance of the restriction.

11. Where a limited liability partnership restricts the rights of a person, it shall notify the person affected by the restriction, in writing of the —

Content of a restriction notice.

- (a) date the warning notice under regulation 8 was issued;
- (b) date on which the restriction was issued; and
- (c) effect of the restriction.

12. The effect of a restriction issued under regulation 10 with respect to a right is as follows—

Effect of restriction.

- (a) no rights are exercisable including the right to participate in the decisions of the limited liability partnership through voting or otherwise; and
- (b) no payment may be made of sums due from the limited liability partnership in respect of the rights

13. (1) Where a notice issued under regulation 8 is complied with after the time specified in the notice, the limited liability partnership shall, within fourteen days of compliance of the notice, withdraw the restriction placed on the rights of the beneficial owner.

Withdrawal of the restriction.

(2) A limited liability partnership shall note in its register of beneficial owners—

- (a) the date on which the withdrawal was issued;
- (b) the date on which the limited liability partnership became required to withdraw the restriction; and
- (c) the person's rights in the limited liability partnership.

(3) The limited liability partnership shall file a copy of the withdrawal issued under this regulation with the Registrar within fourteen days from the date the withdrawal was issued.

14. (1) A limited liability partnership shall note in its register of beneficial owners that it knows or has reasonable cause to believe that there is a beneficial owner in relation to the limited liability partnership but it—

Unidentified beneficial owners.

- (a) has not identified the beneficial owner;
- (b) has not been able to obtain the beneficial owner particulars;
- (c) has issued a warning notice which has not been complied with;
- (d) has issued a restriction notice; or
- (e) there is a matter pending before court in relation to beneficial ownership.

(2) The limited liability partnership shall lodge with the Registrar in Form LBOF5 as set out in the First Schedule details setting out the steps undertaken to identify the beneficial owner or any other relevant information related to sub regulation (1).

15. (1) A limited liability partnership or a beneficial owner of a limited liability partnership shall report to the Registrar material discrepancy identified by them in relation to beneficial ownership information filed by the limited liability partnership.

Discrepancy reporting.

(2) The Registrar may, upon receipt of the report under sub regulation (1), issue a direction to the limited liability partnership directing the partnership to address the discrepancy by filing an updated copy of its beneficial ownership register pursuant to section 31B of the Act.

(3) Failure to comply with the Registrar's directive under sub regulation (2) shall have the same effect as a failure to comply with the directive issued under section 31B of the Act.

16. (1) A limited liability partnership shall not use or disclose beneficial ownership information except—

Disclosure by the limited liability partnership.

- (a) where the use is for the purpose of communicating with the beneficial owner concerned;
- (b) where the disclosure is made in order to comply with any requirement in these Regulations;
- (c) where the disclosure is made in order to comply with the Proceeds of Crime and Anti-Money Laundering Act, 2009 and its Regulations;
- (d) where the disclosure is made in order to comply with the Prevention of Terrorism Act, 2012 and its Regulations; or
- (e) where the disclosure is made in order to comply with a court order.

(2) Notwithstanding the provisions of sub-regulation (1), information relating to a beneficial owner may be disclosed by a limited liability partnership—

- (a) with written consent of the beneficial owner;
- (b) to the procuring entity, where the limited liability partnership participates in public procurement and assets disposal under the Public Procurement and Asset Disposal Act, 2015;
- (c) to the contracting authority, where the limited liability partnership participates in a public private partnership

arrangement under the Public Private Partnership Act, 2013;
or

- (d) to financial institutions for the purposes of entering into a relationship with the institution.

17. The Registrar may—

Disclosure by the Registrar.

- (a) use information relating to a beneficial owner for the purpose of communicating with the beneficial owner;
- (b) upon a written request or any other means the Registrar may specify, make available the beneficial ownership information of a company, to—
- (i) a competent authority;
- (ii) the Public Procurement Regulatory Authority;
- (iii) the Public Private Partnerships Committee;
- (iv) supervisors or regulators of financial institutions and designated non-financial businesses and professionals;
or
- (v) any government agency in charge of implementing anti money laundering and countering financing of terrorism measures;
- (c) upon receipt of Form BOF6 set out in the First Schedule or as the Registrar may specify and on payment of the fee set out in the Second Schedule, disclose beneficial ownership information of a limited liability partnership, except protected personal identifiable information, to—
- (i) financial institutions; or
- (ii) designated non-financial businesses or professionals; or
- (d) disclose beneficial ownership information of a limited liability partnership pursuant to a court order.

18. Beneficial ownership information shall not be made available to the public or be published, except—

Data Protection.

- (a) by the Public Procurement Regulatory Authority in the Government Portal in relation to entities that have been awarded a tender by the procuring entity as part of a contract award; or
- (b) by a government where the matter is of public interest.

19. The publication or disclosure of the beneficial ownership information under these Regulations shall not include protected personal identifiable information, except where such disclosure is made to a competent authority or pursuant to a court order.

Disclosure of protected information.

FIRST SCHEDULE

FORMS

FORM LBOFI

r.5(1)

REGISTER OF BENEFICIAL OWNERS*

[Section 31B of the Limited Liability Partnerships Act, 2011]

Name of Limited Liability Partnership:

Number of limited liability partnership:

To the Registrar of Limited Liability Partnership:

The above company hereby lodges the register of beneficial owners in accordance with section 31B of the Limited Liability Partnership, 2011 that the following person is a beneficial owner of the company

Date that the person became a beneficial owner: ____/____/____ [dd/mm/yyyy]

BENEFICIAL OWNER

Full Name	
Birth Certificate Number, National identity card number or Passport number	
Personal identification number	
Nationality	
Date of birth [dd/mm/yyyy]	
Postal address	
Business address	
Residential address	
Telephone number	
Email address	
Occupation or profession	

NATURE OF OWNERSHIP OR CONTROL

Nature of ownership or control the beneficial owner has in the Limited Liability Partnership	<input type="checkbox"/> The percentage of share in the capital contribution or profits of the limited liability partnership either directly or indirectly a person holds in the Limited Liability Partnership
	<input type="checkbox"/> Directly% right to share in capital or profit
	<input type="checkbox"/> Indirectly % right to share in capital or profit
	<input type="checkbox"/> The percentage of voting rights in the conduct and management of the Limited Liability Partnership whether directly or indirectly
	<input type="checkbox"/> Directly% of voting rights
	<input type="checkbox"/> Indirectly % of voting rights
	<input type="checkbox"/> A person holds a right to appoint or remove a partner of manager of the limited liability partnership; and/or

	<input type="checkbox"/> Directly <input type="checkbox"/> Indirectly <input type="checkbox"/> A person exercises significant influence or control over the limited liability partnership. <input type="checkbox"/> Directly <input type="checkbox"/> Indirectly
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[Note: Please enter particulars of every beneficial owner in a separate form]

**LINK OF BENEFICIAL OWNER WITH THE LIMITED LIABILITY
PARTNERSHIP IN INDIRECT
OWNERSHIP**

Specify—	
	(a) Name of partner linked to the beneficial owner of the limited liability partnership;
	(b) Name of manager appointed by the beneficial owner;

Lodged on behalf of the company by:	
Name:	
National identity card number / Passport number	
Address:	
Signature:	
Capacity:	
Source**:	
Date:	

NOTES

*This form is used to notify the Registry of the particulars of limited liability partnership beneficial owners.

** Please indicate whether the information obtained was-

- (a) provided by the beneficial owner or their authorised representative;
- (b) taken from an official register; or
- (c) provided by a third party not directly related to the beneficial owner.

FORM LBOF2

r.5(2)

CHANGE OF BENEFICIAL OWNERS' PARTICULARS*

[Section 31B of the limited liability partnership Act, 2011]

Name of limited liability partnership:	
Number of the limited liability partnership:	

To the Registrar of Companies:

The above limited liability partnership hereby gives notice in accordance with section 31B of the limited liability partnership Act, 2011, that the registered particulars** of the beneficial owners of the limited liability partnership, as specified in column 1 of the table below, have changed as indicated in column 2 of that table.

<i>Column 1 Name of the beneficial owner concerned</i>	<i>Column 2 Particulars of change</i>

Lodged on behalf of the limited liability partnership by:

Name:	
National identity card number / Passport number	
Postal Address:	
Signature:	
Capacity:	
Source***:	
Date:	

NOTES

*This form is used to notify the Registry of changes in the particulars of limited liability partnership beneficial owners.

**The particulars to be notified are of changes occurring in the limited liability partnership's register of beneficial owners.

*** Please indicate whether the information obtained was (a) provided by the beneficial owner or their authorised representative; (b) taken from an official register; or (c) provided by a third party not directly related to the beneficial owner.

FORM LBOF3

r.5(3)

NOTICE OF A NEW BENEFICIAL OWNER**

[Section 31B of the Limited Liability Partnerships Act, 2011]

Name of Limited Liability Partnership:

Number of limited liability partnership:

To the Registrar of Limited Liability Partnership:

The above company hereby lodges the register of beneficial owners in accordance with section 31B of the Limited Liability Partnership, 2011 that the following person is a beneficial owner of the limited liability partnership.

Date that the person became a beneficial owner: ____/____/____ [dd/mm/yyyy]

BENEFICIAL OWNER

Full Name	
Birth Certificate Number, National identity card number or Passport number	
Personal identification number	
Nationality	
Date of birth [dd/mm/yyyy]	
Postal address	
Business address	
Residential address	
Telephone number	
Email address	
Occupation or profession	

NATURE OF OWNERSHIP OR CONTROL

Nature of ownership or control the beneficial owner has in the Limited Liability Partnership	<input type="checkbox"/> The percentage of share in the capital contribution or profits of the limited liability partnership either directly or indirectly a person holds in the Limited Liability Partnership <input type="checkbox"/> Directly% right to share in capital or profit <input type="checkbox"/> Indirectly% right to share in capital or profit <input type="checkbox"/> The percentage of voting rights in the conduct and management of the Limited Liability Partnership whether directly or indirectly <input type="checkbox"/> Directly% of voting rights <input type="checkbox"/> Indirectly% of voting rights <input type="checkbox"/> A person holds a right to appoint or remove a partner manager of the limited liability partnership; and/or <input type="checkbox"/> Directly
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	<input type="checkbox"/> Indirectly <input type="checkbox"/> A person exercises significant influence or control over the limited liability partnership. <input type="checkbox"/> Directly <input type="checkbox"/> Indirectly
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[Note: Please enter particulars of every beneficial owner in a separate form]

**LINK OF BENEFICIAL OWNER WITH THE LIMITED LIABILITY PARTNERSHIP
IN INDIRECT
OWNERSHIP**

Specify—	
	(c) Name of partner linked to the beneficial owner of the limited liability partnership;
	(d) Name of manager appointed by the beneficial owner;

Lodged on behalf of the company by:	
Name:	
National identity card number / Passport number	
Address:	
Signature:	
Capacity:	
Source**:	
Date:	

NOTES

*This form is used to notify the Registry of the particulars of limited liability partnership beneficial owners.

** Please indicate whether the information obtained was-

- (a) provided by the beneficial owner or their authorised representative;
- (b) taken from an official register; or
- (c) provided by a third party not directly related to the beneficial owner.

FORM BOF4

r.5(4)

NOTICE OF CEASING TO BE A BENEFICIAL OWNER*

[Section 31B of the Limited Liability Partnerships Act, 2011]

Name of limited liability Partnership:	
Number of the limited liability Partnership:	

To the Registrar of limited liability Partnership:

The above company hereby gives notice in accordance with section 31B of the limited liability Partnership Act, 2011 that the beneficial owners of the limited liability Partnership: as specified in column 1 of the table below, ceased to be beneficial owners of the limited liability Partnership: on the date(s) specified opposite that/those name(s) in column 2 of that table.

<i>Column 1 Name of the beneficial owner concerned</i>	<i>Column 2 Date on which a person ceased to be a beneficial owner</i>	<i>Column 3 Reason(s) for cessation</i>
	___/___/___ [dd/mm/yyyy]	
	___/___/___ [dd/mm/yyyy]	
	___/___/___ [dd/mm/yyyy]	

Lodged on behalf of the limited liability Partnership: by:	
Name:	
National identity card number / Passport number:	
Postal Address:	
Signature:	
Capacity:	
Source**:	
Date:	

NOTES

* This form is used to notify the Registry of the particulars of limited liability partnership beneficial owners.

** Please indicate whether the information obtained was-

- (a) provided by the beneficial owner or their authorised representative;
- (b) taken from an official register; or
- (c) provided by a third party not directly related to the beneficial owner.

UNSPECIFIED OR UNKNOWN BENEFICIAL OWNER

Indicate the reasonable steps taken by the limited liability partnership in attempting to identifying a beneficial owner and attach evidence of the steps taken to acquire the particulars. **	
Steps taken to identify beneficial owners	<input type="checkbox"/> The limited liability partnership has not identified the beneficial owner <input type="checkbox"/> The limited liability partnership has given notice to all persons it knows or believes to be beneficial owner which has not been complied with <input type="checkbox"/> The limited liability partnership has issued a warning notice which has not been complied with <input type="checkbox"/> The limited liability partnership has issued a restriction notice <input type="checkbox"/> The limited liability partnership has restricted rights attached to the shares more particularly specified below
Persons holding rights subject of warning notice or Restrictions	
Full Name of shareholder	
Birth Certificate Number, National identity card number or Passport number	
Personal identification number	
Nationality	
Date of birth [dd/mm/yyyy]	
Postal address	
Business address	
Residential address	
Telephone number	
Email address	
Number of shares held	
Lodged on behalf of the limited liability partnership by:	
Name:	
National identity card number / Passport number:	
Postal Address:	
Signature:	
Capacity	
Source	
Date:	

BENEFICIAL OWNERSHIP OFFICIAL SEARCH REQUEST

[Section 31B of the Limited Liability Partnerships Act, 2011]

Name of Limited Liability Partnership:

Number of limited liability partnership:

Lodged by:	
Name:	
National identity card number / Passport number:	
Postal Address:	
Signature:	
Date:	

FORM LBOF7**BENEFICIAL OWNERSHIP OFFICIAL SEARCH REPORT**

[Section 31B Limited Liability Partnerships Act, 2011]

To:

Records relating to the below company held by the Registrar as at

Name of the Limited Liability Partnership	
Registration Number	
Date of registration	
Registered address	

Names of the beneficial owners *

Name	Postal address	Nationality

Note:

*Information contained herein shall only be used for the purposes of customer due diligence and shall not be published disclosed to third parties unless permitted by law.

FORM LBOF8

DISCREPANCY REPORTING

[Section 31B of the Limited Liability Partnerships Act, 2011]

Name of Limited Liability Partnership:

Number of limited liability partnerships:

Nature of Discrepancy

Lodged on behalf of the limited liability partnership by:	
Name:	
ID/ Passport number	
Address:	
Signature:	
Capacity:	
Source:	
Date:	

SECOND SCHEDULE

FEES

<i>Item</i>	<i>Matter</i>	<i>Fee (Ksh.)</i>
1.	Notice of cessation of a beneficial owner under regulation 5(4)	500
2.	Access of beneficial ownership information by financial institution under Regulation 17 (c)	600

Made on the 18th October, 2023.

J. B. N. MUTURI,
Attorney-General.