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SYNOPSIS FOR THE 21ST ICPSK ANNUAL INTERNATIONAL CONFERENCE

PRIDEINN PARADISE RESORT, CONVENTION CENTRE & SPA, MOMBASA

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The world has been undergoing tremendous transformations - in business, society and the environment - which have a direct impact on the global populace. These transformations range from global climatic changes; advancements in technology, a good example being ubiquitous social media platforms that have radicalized transparency; political and economic transformations; ecological overshoot exacerbated by the rise in human population; and different political leadership styles that have influenced the stability or instability of states. These have brought with them a myriad of opportunities as well as risks. Governance comes in handy as far as making decisions on the best structural frameworks to address these issues is concerned.

In the turn of the 21st century, the heads of world states and governments gathered at the United Nations Headquarters with a vision to end poverty and its many manifestations. They adopted the Millennium Development Goals (MDGs) – eight in number - which remained the overarching development framework for the world up to year 2015. Developed and developing countries alike made tremendous steps in achieving the stipulated goals. The United Nations Millennium Development Goals Report 2015 observes that extreme poverty has declined significantly over the last two decades. In 1990, nearly half of the population in the developing world lived on less than \$1.25 a day; that proportion dropped to 14 per cent in 2015.

However, despite the decline in extreme poverty, many developing countries were faced with governance challenges such as corruption, inequalities, violation of human rights, misallocation of resources and lack of political will thus harboring the achievement of the vision. It was believed that with targeted interventions, sound strategies, adequate resources, and political will, even the poorest countries could make dramatic and unprecedented progress. It was on this basis that on 25th September 2015, the Heads of State and Government and High Representatives, meeting at United Nations Headquarters in New York adopted the 2030 Agenda for Sustainable Development. The 2030 agenda consists of 17 Sustainable Development Goals and 169 targets which are integrated and indivisible and balance the three dimensions of sustainable development, that is, the economic, social and environmental.

It is evident that in pursuit of the global and national agendas, good governance is the driving force. With proper governance structures and ethical leadership, the developmental blueprints can easily be realized. This would go a long way in uplifting the living standards of a majority of the impoverished global populace. In the Kenyan

context, in 2008, the Government formulated the *Kenya Vision 2030* development blue print in line with the global agenda. The implementation of the various flagship projects across the country, meant to improve the livelihoods of Kenyans, is in full gear. Further, the promulgation of *The Constitution of Kenya, 2010* coupled with a number of reforms such as in the electoral process, judiciary, police service, public service, public participation, and devolution of government will go a long way in creating fundamental and sustainable change that meets the citizens' needs and aspirations. This is happening amidst a myriad of challenges which the Government is working hard to manage.

This conference is happening within an electioneering year in Kenya. On the 8th of August, 2017, Kenyans will go to the ballot to elect their representatives at the national and county levels of governments. It is evident that the populace of any democratic nation is paramount to determining the form of governance they envisage. Kenyans are looking forward to a free, fair, peaceful and democratic electoral process that would bring in leaders who are expected to steer the country towards the achievement of the national and global agenda.

It is in this context that the theme for this year's ICPSK Annual International Conference is **“GOOD GOVERNANCE AS A FOUNDATION FOR SOCIO-ECONOMIC AND POLITICAL DEVELOPMENT.”**

OBJECTIVES OF THE CONFERENCE

The overall objective of this Conference is to explore the role of good governance as a foundation for socio-economic and political development.

The specific objectives of this Conference are to aid participants:-

- a) Determine the nexus between good governance and social-economic and political development;
- b) Explore the contribution of the various players in governance to the socio-economic and political stability;
- c) Appreciate the contribution of the devolved governance structures in sustainable development;
- d) Examine the governance value propositions that would positively impact on the transformational agenda.

The following topics will be addressed on the Conference Theme:-

1. Role of the Judiciary in Democratic Elections, Rule of Law, and Good Governance

Good governance entail the prevalence of the rule of law, **an independent judiciary**, effective participation in public policy-making, besides a system of institutional checks & balances through vertical and horizontal separation of powers, and effective oversight agencies. In many jurisdictions, judiciary forms one of the key arms of government; the others being the executive and legislature. The main role of the Judiciary is the administration of justice. There may be a plethora of laws, regulations, rules and

procedures but when disputes emerge, they have to be settled in a court of law. Other than the administration of justice, the judicial system has an important role to play in democratic elections, rule of law and ensuring better public governance. There is no area where the judgments of courts (including tribunals) have not played a significant contribution in the governance – good governance – whether it is in, human rights, gender justice, rule of law, elections, environment, education, minorities, and curtailing the limits on the excesses of parliament and the executive.

Rule of law, liberty and democracy together represent the universally accepted index of a civil society. Democracy signifies a government of the people, by the people and for the people. The citizenry of many nations exercise their democratic rights through elections. They elect their representatives who represent them in the advancement of various national policies and programs. In any democratic society, it is important that the individual liberties are protected as this follows the notion of democracy as a natural outcome. This entails the espousal of a methodical configuration of laws by which society might be regulated and different conflicting interests can be harmonized to the fullest extent. This is why “the rule of law” is indispensable. It envisages the pre-eminence of law as opposed to capricious dictates or anarchy. It involves equal accountability of all before the law irrespective of low or high status. This then places the judicial system at the heart of protecting the rights of the populace and advancing the democratic principles, the rule of law, leading to good governance.

It is in the light of this that the objective of this session is to;

- a) Examine the role of the Judiciary in the democratic electoral processes;
- b) Elaborate the role of the Judiciary in upholding the rule of law;
- c) Highlight the contribution of the judiciary to good governance.

2. Improving Governance and Service Delivery through E-Government

Globally, there have been tremendous transformations in the manner in which governments deal with their citizenry as far as service delivery and governance is concerned. The bureaucratic tape that has bedeviled governments over the years especially in developing countries is slowly but surely fizzling out. Governments have realized that for them to quickly reach their developmental agenda and remain relevant in the contemporary era and beyond, they have to engage their citizens and businesses in a more efficient and effective way. They have done this through the adoption of the e-Government platforms. E-government is the use of digital tools and systems, by governments, to provide better public services to citizens and businesses. The use of the Information and Communication Technology (ICT) platform has revolutionized how governments do their business. By the click of a button, the populaces of various countries across the world are able to access, from any part of the globe, a wide range of services offered by their governments as well as know how their governments are performing.

It is evident that in many jurisdictions across the world, ICT systems are now at the heart of government processes. The various reforms being undertaken by various governments ranging from electoral, public service, financial, trade, manufacturing, transport, education, and health, are facilitated by the use of ICT. In the Kenyan Context, the Government of Kenya has adopted e-Government, popularly referred to as digital government. In year 2004, the Government approved the e-Government Strategy signaling the start of e-Government. In the year 2006, the National ICT Policy was approved under the Ministry of Information and Communications. Since then, there has been a myriad of e-Government systems initiated with the aim of reducing human interaction thus reducing corruption, enhancing efficiency, effectiveness, transparency, accountability; and improving public participation in public policy matters. Such systems include, the Integrated Financial Management Information System (IFMIS); websites developed by various government ministries, departments and agencies; e-Registry; e-Citizen platform in which citizens do online registration of companies and marriages, application of driving licenses and passports, and official land searches; iTax where the citizenry can get their online tax services; amongst others.

The government recognizes that for it to achieve the *Kenya Vision 2030* national developmental blueprint, the use of ICT is paramount. The *Vision* proposes intensified application of Science, Technology and Innovation to raise productivity and efficiency levels across the three pillars, namely, economic, social and political.

This session is intended to:

Highlight the journey of e-Government in Kenya while making comparison with other jurisdictions that have successfully implemented e-Government;

- a) Elaborate on the successes/impact brought about by the adoption of the e-Government in public administration;
- b) Enumerate the challenges faced in the implementation of e-government and explore the mitigating strategies.

3. Implementation of New Business Laws and Ease of Doing Business in Kenya

The private sector is very critical in so far as the creation of the wealth of a country is concerned. It complements the government's effort in ensuring a stable and sustainable economy by, providing employment opportunities to a large number of citizens; financial services e.g. banking, insurance, investment funds, etc.; manufacturing – mass production of goods for consumption by the populace; and provision of essential services such as health, water, energy, tourism, transport, education. The substantial amount of the annual government revenue comes from the taxes levied upon the private sector. The Kenyan government recognizes the importance of the private sector in its developmental agenda and endeavors to provide a conducive environment for the sector to operate and create wealth. The government does so by for instance, providing infrastructural facilities such as roads, rails, bridges, airports, sea ports; ensuring the security and safety of its citizens and the country's borders; preservation and protection of the environment and wildlife; and enactment of laws that govern businesses, citizens, and a myriad of issues.

As part of efforts to enhance ease of doing business in Kenya and reap onto the contribution by the private sector, in 2015, the Government of Kenya embarked on major legal reforms on governance and regulation of commercial entities. The aim of these reforms was to modernize and simplify the legal and regulatory system and therefore provide an enabling environment for doing business in the country. These new laws introduced new provisions, processes and institutions and with no doubt immensely effect on the way businesses are managed and governed. The new business laws include: *The Companies Act*; *The Insolvency Act*; *The Special Economic Zones Act*; and *The Business Registration Service Act*; among others.

In light of the above, this session is intended to achieve the following objectives:

- a) Elaborate on the policy context and rationale for reform of laws relating to management and governance of business in Kenya;
- b) Evaluate the salient features of the New Business Laws which have tangible impact on businesses (whether positively or adversely) and assess their effectiveness in conducting business;
- c) Highlight the Country's ranking in ease of doing business taking into account the various parameters/indicators;
- d) Analyze administrative and regulatory challenges of implementing the new legal framework and the implications of such reforms on the role of professionals.

4. Ethical Culture Revolution: The Role of Mentorship

Ethics is key to the sustainability of any institution. It is on the premise of this that most institutions (families, corporates and governments) embrace ethics and integrity as the overarching core value. Sustainable development calls for an ethical consideration in the manner in which individuals, businesses and governments conduct their business. Changes that are being experienced in the contemporary society such as technological innovations and globalization have seen a paradigm shift in the ethical/moral decadence of majority of people. A number of malpractices – such as corruption, nepotism, terrorism, favoritism, economic sabotage, misappropriation of public funds and other crude behaviors - in various institutions across the world have been reported. These threaten the sustainability of these institutions and have an adverse effect on the achievement of national and global goals.

In light of the above, there has been a global outcry in the need for a paradigm shift with regard to embracing ethical behavior and leadership in conducting the affairs of institutions. Various governments have enacted a number of laws and regulations to contain the unethical malpractices and ensure sanity in the way activities are conducted. The famous example is the **Sarbanes-Oxley Act** of 2002 (**SOX**). The Act was enacted in response to a series of high-profile financial scandals that occurred in the early 2000s at companies including Enron, WorldCom and Tyco that rattled investor confidence. Also, various institutions have developed Codes of Conduct and Ethics and other governance documents which are aimed at influencing the behavior of persons leading towards corrupt free ethical and sustainable environments.

Besides the laws, leaders have come to appreciate the fact that mentorship – formally or informally - plays an important part in shaping the ethical outlook of humanity. The

introduction of a number of programs targeting young people such as the Wings to fly by the Equity Bank Foundation in Kenya; Young Leadership Forums; provision of opportunities to students (interns) in the Kenyan public organizations arising from the government policy directive; as well as institutions assigning mentors to specific persons, goes a long way in inculcating the much needed values to the young populace. Seasoned mentors take them through rigorous trainings in a number of stages designed to reinvigorate their thinking and put in them a new ethical paradigm.

This session therefore will examine;

- a) the various roles that mentors play in the ethical paradigm shift;
- b) the effects of mentorship in building sustainable socio-economic and political environments;
- c) the challenges faced by the mentors and mentees in their attempt to achieve the desired outcomes.

5. Role of Media in Election Process

In a democratic society, elections are very important in determining the governance structure envisaged by the majority. Citizens elect leaders whom they believe would steer them towards addressing their challenges leading to socio-economic development. Kenya is bracing itself for the electioneering period the climax of which will be on the 8th of August 2017 in which the electorates will go out to vote for their preferred leaders. There are a number of players critical towards the success/ failure of this process. The media is one of the key players in the election process. It has a big influence before, during and after the elections and thus the need to give it the prominence it deserves. If the media is not properly managed (e.g. spreading of propaganda, incitement and hate speech), it can influence the masses to turn against each other leading to loss of life, mass displacement of people, loss of property and tainted national image.

The period before voting is characterized by a number of activities which span from mass voter registration, party nominations, campaigns, election debates, sensitization forums and media adverts aimed at wooing the voters or providing the voters with information on the party manifestos/ideals. During the actual elections, the media provides information about the progress made in the distribution of electoral materials, the developments during the voting and the challenges being faced by various parties during the election process. After voting, media comes in handy in informing the public on the vote counting process and the announcement of the election results.

In light of this, this session is aimed at;

- a) Evaluating the role played by the media before, during and after the elections;
- b) Appreciating the role of the media in promoting national cohesion during the electioneering process;
- c) Demonstrating, with practical examples, the effect of irresponsible media management of the election process.

6. Responsible Journalism as an Advocate of Good Governance

Journalists, commonly referred to as members of the fourth estate, play an important role in disseminating information on governance matters. Governance in this context implies the ways through which citizens and groups in a society voice their interests, mediate their differences and exercise their legal rights and obligations. Good governance links government to the notion of responsibility for and to the citizenry. Journalists put down - in a timely manner - matters touching on the people upon research on the current affairs, analysis and making objective conclusions. Of critical importance is their role in highlighting matters in support of democratic and participatory governance. The populace is informed of the various progresses being made as well as critical analysis of the events and decisions that have an effect on them. They do these through newspapers, magazines, news websites or preparing news to be broadcasted.

All aspects of good governance are facilitated by a strong and independent media space within a society. Only when journalists are free to investigate, monitor and criticize the public administration's policies and actions can good governance take hold in a country. Independent media are like a beacon that should be welcomed when there is nothing to hide and much to improve. Indeed, this is the concrete link between the functioning of the media and good governance; the media allow for ongoing checks and assessments by the population of the activities of government and other institutions and assist in bringing public concerns and voices into the open by providing a platform for discussion. Discussions revolving around reduction of poverty through achieving sustainable development; promotion of democracy and strengthening the rule of law; new policies that have an effect on the citizenry; Anti-corruption, Transparency and Accountability; and human rights are key in understanding and improving the governance systems.

There is thus need for governments to protect the independent functioning of the media and allow various viewpoints to flourish in society if the media are to function in the public interest. However, journalists should endeavor to pass their message in a responsible way devoid of subjectivity, favoritism, innuendos and falsehoods.

This session will;

- a) enlighten the effects of responsible journalism in advocating for good governance;
- b) examine the challenges faced by journalists in their quest of advocating for good governance.

7. Role of Media in Promoting National Values and National Cohesion

For any society to sustainably develop, its citizenry needs to live in harmony and oneness as they uphold the national values and principles that they subscribe to. It is on the basis of this that governments all over the world enact laws to ensure the promotion of national values, national cohesion and integration amongst its citizens. A cohesive, integrated, peaceful environment coupled with upholding of national values is a panacea to socio-economic development. Article 10 of *The Constitution of Kenya, 2010* lays down the national values and principles of governance that binds all State organs, State officers, public officers and all persons. These include patriotism, national unity, sharing and devolution of power, the rule of law, democracy, participation of the people,

human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination, protection of the marginalized, good governance, integrity, transparency, accountability and sustainable development.

The citizenry needs to be constantly informed of the need to live cohesively as well as of the existence of the various national values and their importance to socio-economic and political development. The media – which has a big viewership - plays an important role in this noble agenda. The importance of the media in nurturing unity can never be underestimated, especially in the current information age where the majority of people largely depend on mediated information as source of knowledge. If used responsibly, the media can play its role to enhance national cohesion and integration, shape public perceptions on national issues, give the right direction and can still play a vital role in creating awareness in all the spheres of its reach. On the other hand, if used irresponsibly, the media can be a catalyst that can cause chaos, spread hate, incite and lead to disintegration of a united society. This has happened in a number of countries where media has been used irresponsibly. It thus fundamental that journalists be always on guard to ensure that peace, cohesiveness and tranquillity prevail in the country, advocate for upholding of the national values and principles, and desist from writing news reports that are harmful to the national interest.

This session will enlighten the participants on the role that the media can play in promoting national values and national cohesion.

8. King IV Report on Corporate Governance for South Africa

South Africa maintains a leading role in setting the agenda and standards for good practice in governance through the *King reports on Corporate Governance* that have been developed since 1994. The King Report is a ground-breaking booklet of guidelines for the governance structures and operation of companies in South Africa. All companies listed on the Johannesburg Stock Exchange are required to comply with the King Reports. These reports have been cited as the most effective summary of the best international practices in corporate governance. The King report is issued by the King Committee on Corporate Governance. The copyrights of the King Report on Corporate Governance and the King Code of Corporate Governance are owned by the Institute of Directors in Southern Africa (IoDSA). So far there have been four reports that have been issued i.e. King I (1994), King II (2002), King III (2009) and King IV (2016).

The King reports on corporate governance are so named because of the involvement of former High Court judge, Mervyn King S.C., an internationally acclaimed expert on corporate governance. Unlike other corporate governance codes such as Sarbanes-Oxley, the code is non-legislative and is based on principles and practices; and adopts explain or apply approach. The code's philosophy consists of three key elements of leadership, sustainability and good corporate citizenship. Under this code, good governance is viewed essentially as being effective, ethical leadership. King believes that leaders should direct the company to achieve sustainable social, economic and environmental performance. The code views sustainability as the primary economic and moral imperative of the 21st century and observes that corporate citizenship flows from a

company's standing as a juristic person under the South African constitution and should operate in a sustainable manner.

King IV report which was launched in 2016 is a revision of King III report. King IV does not represent a significant departure from the philosophical underpinnings of King III. The revision takes into account the various developments in corporate governance both internationally and locally. The report sets out the philosophy, principles, practices and outcomes which serve as the benchmark for corporate governance in South Africa. The main objectives of King IV report are to:

- a) Promote corporate governance as integral to running an organization and delivering governance outcomes such as an ethical culture, good performance, effective control and legitimacy;
- b) Broaden the acceptance of the King IV by making it accessible and fit for implementation across a variety of sectors and organizational types;
- c) Reinforce corporate governance as a holistic and interrelated set of arrangements to be understood and implemented in an integrated manner;
- d) Encourage transparent and meaningful reporting to stakeholders;
- e) Present corporate governance with not only structure and process, but also with an ethical consciousness and conduct.

Generally, King IV advocates a “stakeholder inclusive” approach. This recognizes that companies are integral parts of societies – as taxpayers, investment vehicles, job creators and talent developers – but also that companies rely on society and the environment in which they operate for growth and sustainability. This session aims at expounding on these and other issues revolving around the King IV report, present the progress made so far in its implementation, as well as describe the envisaged impact of the principles in this report on the success of the business, society and environment.

9. Governance Audit Value proposition

In the contemporary era, there has been an increasing demand for good governance in organizations. The shareholders and stakeholders are demanding for more accountability from persons entrusted to steer organizations. This has been as a result of a number of reported corporate failures across the world arising from the adoption of weak governance practices. Such failures include erosion of shareholder value, corporate brand degradation, closure of businesses, loss of jobs, environmental degradation and unending law suits. Shareholders recognize that for their businesses to be sustainable, good governance is paramount. Good governance is indeed the precursor to improved shareholder value, strong brand recognition, efficiency and sustainable institutions. In order to guide organizations entrench good governance, the Institute developed and issued the *Code of Governance for Private Organizations in Kenya* and *Code of Governance for Non-Governmental Organizations in Kenya*. These codes provide a number of governance parameters and practices which if implemented would add value to the

Governments across the world have also been advocating for good governance in the pursuit of their developmental agenda and provision of services to their citizenry. In the Kenyan context, the government has issued the *Code of Governance for State*

Corporations – Mwongozo. This code was issued by the Public Service Commission and the State Corporations Advisory Committee and seeks to inject the principles of corporate governance into the running of state corporations in Kenya. The Code identifies the following as areas crucial to the governance structure of a state corporation: the Board of Directors; transparency and disclosure; Accountability, Risk management and Internal Control; Ethical leadership and Corporate Citizenship; Shareholder rights and obligations; Stakeholder relationship; and Corporate Compliance. The state corporations are required to fully adhere to the provisions of the *Mwongozo*. The populace is expected to receive high quality and expedient services as a result of embracing good governance practices by the state corporations.

The criteria as far as good governance is concerned are set. There is need to conduct periodic review of organizations to ascertain continued adherence to the governance principles in form of a governance audit. A Governance Audit is an independent assessment of an organization with a view to expressing an opinion on the adequacy and effectiveness of the organization's policies, systems, practices and processes.

In light of this, this session aims to:

- a) Explain the concept of governance audit and describe the process of undertaking a governance audit;
- b) Highlight the value of governance audits to shareholders and other stakeholders;
- c) Highlight the progress made by the organizations in the implementation of governance audits in Kenya.

10. The Role of County Governments in National Unity and Harnessing the Local Resources

The promulgation of *The Constitution of Kenya 2010* brought a paradigm shift in the governance structure of the Kenyan public administration system. The Constitution provides that all power belongs to the people of Kenya and is to be exercised at the national and county level. The governments at the national and county levels are distinct and inter-dependent and are expected to conduct their business on the basis of consultation and cooperation. Currently, there are forty seven (47) county governments spread across the country.

For a long time, the populace of the various parts of the country felt left out in the developmental agenda. This was notwithstanding the enormous resources that were at their disposal. The Kenyan people by voting en mass the Constitution were optimistic that once devolution takes effect, they would be in a position to share equitably in the national cake, be involved in the running of the affairs of their respective county governments as well as harness the local resources at their disposal. This, it was believed, would accelerate the country's economic development and improve the livelihood of Kenyans, a key factor envisioned under the *Vision 2030* developmental

agenda. Further, it is envisaged that devolution will be key in the achievement of the 17 sustainable development goals under the UN *Agenda 2030*.

An authentic devolved system of governance empowers people to participate more directly in governance processes. They do this through electing leaders of their choice in a free, fair and democratic system. The first batch of elected leaders (i.e. the Governors, Senators, and Members of County Assemblies) to steer the county governments in Kenya took office in 2013 after a successful electoral process. With the help of the national government (through the Transition Authority, the National Treasury and other government agencies) which is committed towards the success of the county governments, the counties have made great strides in the establishment of the local governance systems and structures, and identifying key priority areas primarily geared towards harnessing the various natural and human resources at their disposal. A walk around the various counties show tangible evidence of improved development, a happy populace and a promising future. In spite of this, there are a number of challenges that have bedeviled counties for instance corruption and misallocation of resources. Despite the teething challenges that have been experienced in the establishment of the county governments, the advent of such governments has brought with it a myriad of opportunities.

This session is intended to:

Highlight the journey of the devolved governance in Kenya; and make comparison with other jurisdictions that have successfully implemented devolved governments;

- a) Elaborate on the successes/impact brought about by the adoption of the devolved system of government as far as unifying the citizenry and harnessing the local resources is concerned;
- b) Enumerate the challenges faced in the implementation of the devolved governments and explore ways of overcoming them.