FOR IMMEDIATE RELEASE:

COMMUNIQUÉ TO MEMBERS AND STAKEHOLDERS

UPDATE ON COURT DECISIONS AFFECTING THE PUBLIC PROCUREMENT REGULATORY FRAMEWORK AND KISM'S INTERVENTIONS

Ref. NO. KISM/COMM/SEN.001/2026 3rd November 2026

Dear Distinguished Members,

The Kenya Institute of Supplies Management (KISM) wishes to update members and the wider supply chain management profession on developments arising from **two (2) High Court decisions** affecting the public procurement regulatory framework.

The decisions include ***Roads and Civil Engineering Contractors Association & Another v Attorney General & Another (Petition E226 of 2020)***, delivered on **4th December 2025**, which declared the Public Procurement and Asset Disposal Regulations, 2020 unconstitutional, null and void *ab initio*, and invalidated Sections 167(2) and 175(2) of the Public Procurement and Asset Disposal Act, 2015; and ***Law Society of Kenya v Attorney General & Another; Public Procurement Administrative Review Board & 2 Others (Interested Parties) [2026] KEHC 7018 (KLR)***, delivered on **9th June 2026**.

Recognizing the implications of these decisions for procurement operations and professional practice, KISM has **proactively engaged** the National Treasury, Parliament and other relevant institutions to seek clarity and appropriate interventions.

On **9th June 2026**, the Institute formally requested the National Treasury to provide transitional guidance to ensure continuity of procurement operations and compliance. Subsequently, on **27th October 2026**, KISM appeared before the Senate County Public Accounts Committee (CPAC) in Naivasha, alongside representatives of the National Treasury, PPRA and ICPAK, to deliberate on the implications and possible interventions.

The Senate Committee resolved that the National Treasury should issue guidelines to all procuring entities **within one (1) month** to guide procurement operations during the intervening period as longer-term solutions are pursued, including the development of constitutionally compliant replacement regulations and/or appropriate legal action, including consideration of an appeal.

The Committee also appreciated KISM's contribution to strengthening procurement capacity in the Counties through **23 targeted capacity-building programmes across the country**, reaching over **2,000 procurement professionals**. Further, it welcomed the KISM recommendation to second suitable and qualified technical personnel to relevant parliamentary accountability and oversight committees.

GUIDANCE TO MEMBERS

KISM appeals to all members to exercise patience as the relevant Government institutions and regulatory authorities address the outstanding matters. In the meantime, members are encouraged to:

1. Continue discharging their professional responsibilities in accordance with the Constitution, applicable statutory provisions, lawful directives and institutional guidance.
2. Uphold the highest standards of professionalism, integrity, accountability, transparency and ethical conduct.
3. Avoid speculative interpretations and actions that may expose themselves or their institutions to legal and audit risks.
4. Remain informed and participate in KISM's professional development, training and sensitisation programmes.

KISM'S COMMITMENT

KISM will sustain its engagement with the National Treasury, PPRA, Parliament and other stakeholders, follow up on the Senate resolutions and keep members informed of significant developments, including the issuance of the anticipated guidelines.

We urge all members to remain patient, steadfast and committed to public service, professionalism and the rule of law as the relevant institutions undertake the necessary interventions.

KISM remains committed to advancing the interests of the profession while safeguarding public procurement integrity, accountability and effective service delivery.

Kenneth Matiba, MBS
SECRETARY/CHIEF EXECUTIVE OFFICER

BY ORDER OF THE KISM COUNCIL