



PROCURING ENTITY:

KENYA PORTS AUTHORITY PENSION SCHEME

TENDER NUMBER	TENDER NO. KPAPS/PVS/003/2026
TENDER DESCRIPTION	TENDER FOR SCHEME PROPERTY VALUATION SERVICES
PROCUREMENT METHOD	OPEN TENDER
INVITATION DATE	18 th MAY 2026
SITE VISIT	A mandatory pre-bid site visit will be held on 21 st May 2026 9:00am Mombasa Properties ZONE A at Old Cannon Towers, Moi Avenue Mombasa, and on 26 th May 2026 at 9.00am for Nairobi Properties ZONE B at Bellevue Estate South C along POPO ROAD and. Bidders must ensure that Site Visit forms are duly filled and signed by the appointed KPAPS official.
SUBMISSION	5 th JUNE 2026 AT 10:00 AM

Chairman Board of Trustees,
Kenya Ports Authority Pension Scheme
P.O. Box 1019 - 80100 Mombasa, Kenya
Tel 0768777444
Email: procurement@kpapension.co.ke
Website: www.kpapension.co.ke
Cannon Towers (Old Block), 7th Floor, on Moi Avenue, Mombasa.

MAY 2026

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1) SECTION 1 (A) - TENDER FOR SCHEME PROPERTY VALUATION SERVICES

Dear Messrs.

2. The Procuring Entity now invites proposals from eligible firms specializing in **Valuation of properties for purposes of ascertaining the book value, sale, and Insurance**. More details on the Services are provided in Section 8 Terms of Reference.
4. If a Consultant is a Joint Venture (JV), the full name of the JV shall be used and all members, starting with the name of the lead member. Where sub-consultants have been proposed, they shall be named. The maximum number of JV members shall be specified in the DS.
5. It is **not** permissible to transfer this RFP to any other firm.
6. Consultants may not be associated with other shortlisted consultants. Subject to restrictions noted in the RFP, consultants may associate with other non-short-shortlisted consultants to enhance their capacity to successfully carry out the assignment.
7. A firm will be selected under **[Cost Based Selection Method]** and in a format as described in this RFP.
8. **Section 1:** Letter of Request for Proposals.
Section 2: Instructions to Consultants and Data Sheet.
Section 3: Technical Proposal Standard Forms.
Section 4: Financial Proposal Standard Forms.
Section 5: Terms of Reference.
Section 6: Standard Forms of Contract ([Select: Time-Based or Lump-Sum]).
9. Please inform us writing by E-mail via
 - a) That you have received this Request for Proposals; and
 - b) Whether you intend to submit a proposal alone or intend to enhance your experience by requesting permission to associate with other firm(s) (if permissible under Section 2, Instructions to Consultants (ITC), Data Sheet 14.1.1).
10. Details on the proposal's submission date, time and address are provided in the ITC 17.7 and ITC 17.9 of the Data Sheet.

**CHAIRMAN BOARD OF TRUSTEES
KENYA PORTS AUTHORITY PENSION SCHEME
P.O Box 1019-80100
MOMBASA**

SECTION 2. INSTRUCTIONS TO CONSULTANTS AND DATA SHEET Section

2(a). Instructions to Consultants (ITC)

A. GENERAL PROVISIONS

1. Meanings/Definitions

- a) "Affiliate(s)" means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- b) "Applicable Law" means the laws and any other instruments having the force of law in Kenya.
- c) "Procuring Entity" means the entity that is carrying out the consultant selection process and signs the Contract for the Services with the selected Consultant.
- d) "Consultant" means a legally established professional consulting firm or an entity that may provide or provides the Services to the Procuring Entity under the Contract.
- e) "Contract" means a legally binding written agreement signed between the Procuring Entity and the Consultant and includes all the attached documents listed in Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- f) "Data Sheet" means an integral part of the Instructions to Consultants (ITC) Section 2 that is used to effect specific assignment conditions to supplement, but not to overwrite, the provisions of the ITC.
- g) "Day" means a calendar day unless otherwise specified as "Business Day". A Business Day is any day that is an official working day in Kenya and excludes official public holidays.
- h) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant, or Joint Venture member(s).
- i) "Government" means the Government of the Republic of Kenya.
- j) "In writing" means communicated in written form such as by mail, e-mail, fax, including, if specified in the Data Sheet, distributed, or received through the electronic-procurement system used by the Procuring Entity with proof of receipt.
- k) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- l) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge, and experience are critical to the performance of the Services under the Contract and whose CV is considered in the technical evaluation of the Consultant's proposal.
- m) "ITC" (this Section 2 of the RFP) means the Instructions to Consultants that provides the Consultants with all information needed to prepare their Proposals.
- n) "Letter of RFP" means the letter of invitation being sent by the Procuring Entity to the Consultants.
- o) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant and who is assigned to perform the Services

or any part thereof under the Contract and whose CVs are not evaluated individually.

- p) "Proposal" means the Technical Proposal and the Financial Proposal of the Consultant.
- q) "
- r) "RFP" means the Request for Proposals to be prepared by the Procuring Entity for the selection of consultants.
- s) "Services" means the work to be performed by the Consultant pursuant to the Contract.
- t) "Sub-consultant" means an entity to whom the Consultant intends to subcontract any part of the Services while the Consultant remains responsible to the Procuring Entity during the whole performance of the Contract.
- v) "Terms of Reference (TORs)" means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, and expected results and deliverables of the assignment.

2. Introduction

- 2.1 The Procuring Entity named in the Data Sheet intends to select a consultant from those listed in the Request for Proposals (RFP), in accordance with the method of selection specified in the Data Sheet.
- 2.2 The Consultants are invited to submit a Technical Proposal and a Financial Proposal, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the Data Sheet. Attending any such pre-proposal conference is optional and is at the Consultants' expense.
- 2.4 The Procuring Entity will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the Data Sheet.

3. Conflict of Interest

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, always holding the Procuring Entity's interest's strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 3.2 The Consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of the Procuring Entity. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultants shall not be hired under the circumstances set forth below:

- i) **Conflicting Activities**
Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Procuring Entity to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.
- ii) **Conflicting Assignments**
Conflict among consulting assignments: A Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may conflict with another assignment of the Consultant for the same or for another Procuring Entity.
- (iii) **Conflicting Relationships**
Relationship with the Procuring Entity's staff: a consultant (including its Experts and Sub-consultants) that has a close business or personal relationship with senior management or professional staff of the Procuring Entity who could influence the bidding process and (i) are directly or indirectly involved in the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from such relationship has been resolved in a manner that determines there is no conflict to affect this selection process.
- iv) **Others**
Any other types of conflicting relationships as indicated in the Data Sheet.

4. Unfair Competitive Advantage

- 4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Procuring Entity shall indicate in the Data Sheet and make available to all Consultants together with this RFP all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.

5. Corrupt and Fraudulent Practices

- 5.1 Consultant firms or any of its members shall not be involved in corrupt, coercive, obstructive, collusive, or fraudulent practice. Consultant firms or any of its members that are proven to have been involved in any of these practices shall be automatically disqualified and would not be awarded a contract.

5.2 Collusive practices

- 5.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any Consultant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Consultants shall be required to complete and sign the "Certificate of Independent Proposal Determination" annexed to the Proposal Form.
- 5.3 In further pursuance of this policy, Consultants shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers,

suppliers, and their personnel, to permit the Government and its agencies to inspect all accounts, records and other documents relating to any short-listing process, Proposal submission, and contract performance (in the case of award), and to have them audited by auditors, investigators, or compliance officers.

6. Eligibility

- 6.1 In selection of consultants, short-listing shall be composed of firms or individuals who belong to the same line of professional business and who are almost of the same capability.
- 6.2 Unless otherwise specified in the Data Sheet, the Procuring Entity permits Consultants including proposed experts, joint ventures and individual members from all countries and categories to offer consulting services. The maximum number of members so far JV shall be specified in the TDS.
- 6.3 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort, or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek exemption from the Competition Authority. Exemption shall not be a condition for submission of proposals, but it shall be a condition of contract award and signature. AJV tenderers shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 6.4 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 6.5 It is the Consultant's responsibility to ensure that its Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements.
- 6.6 As an exception to the foregoing ITC 6.1 and 6.2 above:
 - a) Sanctions-A firm or an individual that has been debarred from participating in public procurement shall be ineligible to be awarded a contract, or to benefit from the contract, financially or otherwise, during the debarment period.
 - b) Prohibitions-Firms and individuals of a country or goods in a country maybe ineligible if:
 - i) As a matter of law or official regulations, Kenya prohibits commercial relations with that
 - c) Restrictions for Government-owned Enterprises-Government-owned enterprises or institutions in Kenya shall be eligible only if they can establish that they
 - i) Are legally and financially autonomous,
 - ii) Operate under commercial law, and

- iii) That they are not dependent agencies of the Procuring Entity.
- d) Restrictions for public employees - Government officials and civil servants and employees of public institutions shall not be hired for consulting contracts.

6.7 Margin of Preference and Reservations-no margin of preference shall be allowed in the selection of consultants. Reservations may however be allowed to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the Data Sheets. A procuring entity shall ensure that the invitation to submit proposals specifically includes only businesses or firms belonging to one group.

B. Preparation of Proposals

7. General Considerations

7.1 In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

8. Cost of Preparation of Proposal

8.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Procuring Entity is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without there by incurring any liability to the Consultant.

9. Language

9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Procuring Entity shall be written in the English language.

10. Documents Comprising the Proposal

10.1 The Proposal shall comprise the documents and forms listed in the Data Sheet.

10.2 The Consultant shall declare in the Financial Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid rigging.

10.3 The Consultant shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal Submission Form.

11. Only One Proposal

11.1 The Consultant (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude Sub-consultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the Data Sheet.

- 11.2 Members of a joint venture may not also make an individual Proposal, be a subcontractor in a separate proposal or be part of another joint venture for the purposes of the same Contract.
- 11.3 Should a Joint Venture subsequently win the Contract; it shall consider whether an application for exemption from the Competition Authority of Kenya is merited pursuant to Section 25 of the Competition Act 2010.

12. Proposal Validity

a. Proposal Validity Period

- 12.1 The Data Sheet indicates the period during which the Consultant's Proposal must remain valid after the Proposal submission deadline.
- 12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.
- 12.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation and may be subject to sanctions in accordance with IT C5.

b. Extension of Validity Period

- 12.4 The Procuring Entity will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Procuring Entity may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.
- 12.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts, except as provided in IT C12.7.
- 12.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

b. Substitution of Key Experts at Validity Extension

- 12.7 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide written adequate justification and evidence satisfactory to the Procuring Entity together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluations core, however, will remain based on the evaluation of the CV of the original Key Expert.
- 12.8 If the Consultant fails to provide a substitute Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Procuring Entity, such Proposal will be rejected.

c. Sub-Contracting

- 12.9 The Consultant shall not subcontract the whole or part of the Services without reasonable justification and written approval of the Procuring Entity.

13. Clarification and Amendment of RFP

- 13.1 The Consultant may request clarification of any part of the RFP during the period

indicated in the Data Sheet before the Proposals' submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Procuring Entity's address indicated in the Data Sheet. The Procuring Entity will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all Consultants. Should the Procuring Entity deem it necessary to amend the RFP because of a clarification, it shall do so following the procedure described below:

- 13.2 At any time before the proposal submission deadline, the Procuring Entity may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all invited Consultants and will be binding on them. The Consultants shall acknowledge receipt of all amendments in writing.
- 13.3 If the amendment is substantial, the Procuring Entity may extend the proposal submission deadline to give the Consultants reasonable time to take an amendment into account in their Proposals.
- 13.4 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

14. Preparation of Proposals – Specific Considerations

- 14.1 While preparing the Proposal, the Consultant must give particular attention to the following:
 - (a) If a consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so only if only one Proposal is submitted, in accordance with ITC 11. Above. A Consultant cannot associate with shortlisted Consultant(s). When associating with non-shortlisted/non-invited firms in the form of a joint venture or a sub-consultancy, the shortlisted/invited Consultant shall be a lead member. If shortlisted/invited Consultant associates with each other, any of them can be a lead member.
 - (b) The Procuring Entity may indicate in the Data Sheet the estimated amount or Key Experts' time input (expressed in person-month), or the Procuring Entity's estimated total cost of the assignment, but not both. This estimate is indicative, and the Proposal shall be based on the Consultant's own estimates for the same. This clause shall not apply when using Fixed Budget selection method.
 - (c) For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input shall not be disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.
 - (d) Key Experts shall not appear in more than one proposal unless so allowed in the Data Sheet. Invited firms must confirm and ensure their key experts do not appear in proposal of other invited firms, otherwise proposals with Key experts appearing in other proposals will be rejected.

15. Technical Proposal Format and Content

- 15.1 The Technical Proposal shall be prepared using the Standard Forms provided in Section 3 of the RFP and shall comprise the documents listed in the Data Sheet under ITC 10.1. The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

15.2 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

a. Price Adjustment

16.2 For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates apply if so, stated in the Data Sheet.

b. Taxes

16.3 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the Data Sheet. Information on taxes in Kenya is provided in the Data Sheet.

c. Currency of Proposal

16.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in Kenya Shillings.

d. Currency of Payment

16.5 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

C. SUBMISSION, OPENING AND EVALUATION

17. Submission, Sealing, and Marking of Proposals

17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with ITC 10 (Documents Comprising Proposal). Consultants shall mark as "CONFIDENTIAL" information in their Proposals which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information. The submission can be done by mail or by hand. If specified in the Data Sheet, the Consultant has the option of submitting its Proposals electronically.

17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and the Financial Proposals and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.

17.3 A Proposal submitted by a Joint Venture shall be signed by all members to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.

17.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initiated by the person signing the Proposal.

17.5 The signed Proposal shall be marked "ORIGINAL", and its copies marked "COPY" as appropriate. The number of copies is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

18. Sealing and Marking of Proposals

18.1 The firm shall deliver the Proposals in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the assignment, addressed to the Procuring Entity and a warning "**DO NOT OPEN BEFORE 04/06/2026 at 10:00AM**". Within

the single envelope, package or container, the Firm shall place the following separate, sealed envelopes.

18.2 In the single sealed envelope, or in a single sealed package, or in a single sealed container the following documents shall be closed and shall be addressed as follows:

- i) in an envelope or package or container marked "ORIGINAL", all documents comprising the Technical Proposal, as described in ITC11.
- ii) in an envelope or package or container marked "COPIES", all required copies of the Technical Proposal.
- iii) in an envelope or package or container marked "ORIGINAL", all required copies of the Financial Proposal; and

18.3 The inner envelopes or packages or containers shall:

- i) Bear the name and address of the Procuring Entity.
- ii) Bear the name and address of the Firm; and
- iii) Bear the name and Reference number of the Assignment.

18.4 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the proposal. Proposals that are misplaced or opened prematurely will not be accepted.

18.5 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by the Procuring Entity no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by the Procuring Entity after the deadline shall be declared late and rejected and promptly returned unopened.

19. Confidentiality/Canvassing

19.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Procuring Entity on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.

19.2 Any attempt by consultants or anyone on behalf of the Consultant to influence improperly the Procuring Entity in the evaluation of the Proposals.

19.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a consultant wishes to contact the Procuring Entity on any matter related to the selection process, it should do so only in writing.

20. Opening of Technical Proposals

- 20.1 The Procuring Entity's opening committee shall conduct the opening of the Technical Proposals in the presence of the Consultants' authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored by the Procuring Entity or with a reputable public auditor or independent authority until they are opened in accordance with ITC 22.
- 20.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.

21. Proposals Evaluation

- 21.1 Subject to provision of ITC 15.1, the valuers of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and after the Procuring Entity notifies all the Consultants in accordance with ITC 22.1.
- 21.2 The Consultant is not permitted to alter or modify its Proposal in anyway after the proposal submission deadline except as permitted under ITC12.7. While evaluating the Proposals, the Evaluation Committee will conduct the evaluation solely based on the submitted Technical and Financial Proposals.

22. Evaluation of Technical Proposals

- 22.1 The Procuring Entity's evaluation committee shall evaluate the Technical Proposals that have passed the eligibility and mandatory criteria, based on their responsiveness to the Terms of Reference and the RFP. The eligibility and mandatory criteria shall include the following and any other that may include in the Data sheet.
- a) Firm has submitted the required number of copies of the Technical Proposals.
 - b) Firm has submitted a sealed financial proposal.
 - c) The Proposal is valid for the required number of days.
 - d) The Technical Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
 - e) The Technical Proposal is complete with all the forms and required documentary evidence submitted.
 - f) A valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14 for Kenyan firms.
 - g) Key Experts are from eligible countries.
 - h) Key Experts do not appear in more than one proposal, if so required.
 - i) A short-listed firm has not participated in more than one proposal, if so required.
 - j) The Consultant is not insolvent, in receivership, bankrupt or in the process of being wound up.
 - k) The Consultant, its sub-consultants and experts have not engaged in or been convicted of corrupt or fraudulent practices.
 - l) .

- m) The firm has not proposed employing public officials, civil servants, and employees of public institutions.
- n) The Consultant, its sub-consultants and experts have no conflicts of interest.

22.2 Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Data Sheet.

24. Correction of Errors

- 24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.
- 24.2 Time-Based Contracts-If a Time-Based contract form is included in the RFP, in case of discrepancy between (i) a partial amount(sub-total) and the total amount, or (ii)between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between figures and words, the later will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails, and the Procuring Entity's evaluation committee shall correct the quantification indicated in the Financial Proposal to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.
- 24.3 Lump-Sum Contracts - If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical correction nor price adjustments shall be made. The total price, net of taxes understood as per ITC 24 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

25. Taxes

- 25.1 Subject to ITC 24.2, all taxes are deemed to be included in the Consultant's financial proposal as separate items, and, therefore, considered in the evaluation.
- 25.2 All local identifiable taxes levied on the contract in voices (such as sales tax, VAT, excise tax, or any similar taxes or levies) and in come and withholding tax payable to Kenya on the remuneration of non-resident Experts for the services rendered in Kenya are dealt with in accordance with the instructions in the Data Sheet.

26. Conversion to Single Currency

- 26.1 For evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

27. Abnormally Low Prices

- 27.1 An Abnormally Low Price is one where the financial price, in combination with other constituent elements of the proposal, appears unreasonably low to the extent that the price raises material concerns with the Procuring Entity as to the capability of the Consulting firm to perform the Contract for the offered price.
- 27.2 In the event of identification of a potentially Abnormally Low Price by the evaluation committee, the Procuring Entity shall seek written clarification from the firm, including a detailed price analyses of its price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risk and responsibilities and any other requirements of the RFP document.
- 27.3 After evaluation of the price analysis, if the Procuring Entity determines that the firm has failed to demonstrate its capability to perform the contract for the offered price, the Procuring Entity shall reject the firm's proposal.

28. Abnormally High Prices

- 28.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the proposal, appears unreasonably too high to the

extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money, or it may be paying too high a price for the contract compared with market prices or that genuine competition between consultants is compromised.

28.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct, and review the RFP to check if the specifications, TOR, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Consultants on the reason or the high proposal price. The Procuring Entity shall proceed as follows:

- i) If the proposal price is abnormally ~~highly based on wrong estimate~~ cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
- ii) If specifications, TOR, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all proposals and may re-invite for proposals for the contract based on revised estimates, specifications, TOR, scope of work and conditions of contract.

28.3 If the Procuring Entity determines that the Proposal Price is abnormally too high because genuine competition between consultants is compromised (*often due to collusion, corruption, or other manipulations*), the Procuring Entity shall reject all Proposals and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before re-inviting for proposals.

29. Combined Quality and Cost Evaluation

a. Quality and Cost Based Selection (QCBS) Method

29.1 In the case of Quality and Cost Based Selection (QCBS), the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant that achieves the highest combined technical and financial score will be notified and invited for negotiations.

b. Combined Technical and Evaluation Report

29.2 The evaluation committee shall prepare a combined technical and financial evaluation report, with specific recommendations for award or otherwise and subject to the required approvals within the Procuring Entity prior to notifications and invitation of consultant for negotiations.

30. Notification of Intention to enter a Contract/Notification of Award

30.1 The Procuring Entity shall send to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Consultant. The **Notification of Intention to enter a Contract / Notification of Award** shall contain, at a minimum, the following information:

- i) The name and address of the Consultant with whom the Procuring Entity successfully negotiated a contract.
- ii) the contract price of the successful Proposal.
- iii) A statement of the reasons why the recipient's Proposal was unsuccessful
- iv) the expiry date of the Standstill Period, and
- v) instructions on how to request a debriefing and/or submit a complaint during the standstill period.

31. Standstill Period

- 31.1 The Standstill Period shall be the number of days stated in the Data Sheet. The Standstill Period commences the day after the date the Procuring Entity has transmitted to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract. The Contract shall not be signed earlier than the expiry of the Standstill Period. This period shall be allowed for aggrieved Consultants to lodge an appeal. The procedure for appeal and the authority to determine the appeal or complaint is as indicated in the Data Sheet.

D. NEGOTIATIONS AND AWARD

32. Negotiations

- 32.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Consultant.

- 32.2 The evaluation committee shall prepare minutes of negotiations that are signed by the Accounting Officer and the Consultant's authorized representative.

32.3 Availability of Key Experts

The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the negotiations, or, if applicable, a replacement in accordance with ITC 12. Failure to confirm Key Experts' availability may result in the rejection of the Consultant's Proposal and the Procuring Entity proceeding to negotiate the Contract with the next-ranked Consultant.

- 32.4 Notwithstanding the above, the substitution Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate.

32.5 Technical negotiations

The technical negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Procuring Entity's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.

32.6 Financial negotiations

The financial negotiations include the clarification of the Consultant's tax liability in Kenya and how it should be reflected in the Contract. All applicable taxes shall be itemized separately and included in the contract price.

- 32.7 If the selection method included cost as a factor in the evaluation (that is QCBS, FBS, LCS), the unit rates and the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

- 32.8 Where QBS or CQS methods were used for a *Lump-sum Contract* as indicated in the RFP, the unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the rates typically charged by consultants in similar contracts or the professional practice. In such cases, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QB and CQS; and (ii) clarifying remuneration rates' structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations – Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant to open its financial proposal and negotiate the contract.

32.9 In the case of a *Time- Based contract*, negotiation of unit rates shall not take place, except when the Key Experts and Non-Key Experts' remuneration rates offered are much higher than the typically charged rates by consultants in similar contracts. In such case, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QBS and CQS; and (ii) clarifying remuneration rates 'structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations-Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant for negotiations.

32.10 Where SSS method was used as indicated in the RFP, both the unit rates and total price shall be negotiated. If the negotiations fail, the Procuring Entity shall terminate the Consultant selection process. In that event, the Procuring Entity shall review the consultancy requirements and market conditions prior to deciding to use an appropriate selection method to again procure the consulting services.

33. Conclusion of Negotiations

33.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initiated by the Accounting Officer and the Consultant's authorized representative and minutes prepared to record the outcome of the negotiations.

33.2 If the negotiations fail, the Procuring Entity shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Procuring Entity shall terminate the negotiations, informing the Consultant of the reasons for doing so. The Procuring Entity will invite the next-ranked Consultant to negotiate a Contract. Once the Procuring Entity commences negotiations with the next-ranked Consultant, the Procuring Entity shall not reopen the earlier negotiations.

34. Letter of Award

34.1 Upon expiry of the Standstill Period, specified in ITC 28.1, after satisfactorily addressing any appeal that has been filed within the Standstill Period, and upon successful negotiations, the Procuring Entity shall send a Letter of Award to the successful Consultant. The letter shall confirm the Procuring Entity's award of Contract to the successful Consultant and requesting the Consultant to sign and return the draft negotiated Contract within Twenty-One (21) Days from the date of the Letter of Award.

35. Signing of Contract

35.1 The Contract shall be signed prior to the expiration of the Proposal Validity Period and promptly after expiry of the Standstill Period, specified in ITC 28.1 and upon satisfactorily addressing any complaint that has been filed within the Standstill Period.

35.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

36. Publication of Procurement Contract

36.1 Within the period specified in the Data Sheet, the Procuring Entity shall publish the awarded Contract which shall contain, at a minimum, the following information: (a) name and address of the Procuring Entity; (b) name and reference number of the contract being awarded, (c) the selection method used; (d) names of the consultants that submitted proposals; (e) names of all Consultants whose Proposals were rejected or were not evaluated; (f) the name of the successful consultant, the final total contract price, the contract duration and a summary of its scope.

36.2 Carefully consider the information on consultants to be published, particularly evaluation by the Procuring Entity, to avoid disclosing information which can facilitate bid-rigging formation going forward. Suggest amendment as follows:

36.3 The awarded Contract shall be published on the Procuring Entity's website with free access if available and in the official procurement tender portal.

37. Procurement Related Complaint and Administrative Review

37.1 The procedures for making Procurement-related Complaints shall be specified in the TDS.

37.2 A request for administrative review shall be made in the form provided under contract forms

2) SECTION 2 (B). DATA SHEET

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A. General Provisions	
1(j)	Electronic procurement system shall NOT be used: (a) No
2.1	Name of the Procuring Entity: KENYA PORTS AUTHORITY PENSION SCHEME The consultant selection method is: LEAST COST SELECTION METHOD (LCS)
2.2	Financial Proposal to be submitted together with Technical Proposal in separate envelopes: Yes The name of the assignment is: Valuation of properties for purposes of ascertaining the book value, sale, and Insurance
2.3	A pre-proposal conference will be held: no This shall be held virtually on The link shall be sent to the firms via their email.
2.4	The Procuring Entity will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: The client will facilitate the consulting firm with any relevant documents and information in its possession that will assist in making the consultancy a success
3.3 (iv)	As indicated in 3.3 (i-iii)
6.2	Maximum number of members in the Joint Venture (JV) shall be: [Two] .
6.6 (a)	6.7 There shall be no margins of preference.
B. Preparation of Proposals	
10.1	The Proposal shall comprise the following: 1st Inner Envelope with the Technical Proposal: Power of Attorney to sign the Proposal. TECH-1: Technical Proposal Submission Form. TECH-2: Consultant's Organization and Experience. TECH-3: Comments and Suggestions. TECH-4: Description of Approach, Methodology and Work plan. TECH-5: Work Schedule and Planning for Deliverables. TECH-6: Team Composition, Assignment, and Key Experts' Input. TECH-7: Mandatory Documentary Evidence. AND 2nd Inner Envelope with the Financial Proposal: (1) FIN-1: Financial Proposal Submission Form. (2) FIN-2: Summary of Costs.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
11.1	Participation of Sub-consultants, and Key Experts in more than one Proposal is permissible: No
12.1	Proposals must remain valid for [120] days after the proposal submission deadline.
13.1	Clarifications may be requested not later than [7] days prior to the submission deadline. The contact information for requesting clarifications is: - E-mail:
14 (b) (do not Use for Fixed Budget method)	["Not applicable"]
14 (c) and 26.2 [use for Fixed Budget method]	["Not applicable"]
14 (d)	Key Experts shall not appear in more than one proposal: YES.
16.1(b)	The Financial Proposal will include (but not limited to) the following reimbursable expenses: (1) <i>a per diem allowance, including hotel, for experts for every day of absence from the home office for the purposes of the Services.</i> (2) <i>cost of travel by the most appropriate means of transport and the most direct practicable route.</i> (3) <i>cost of office accommodation, including overheads and back-stop support.</i> (4) <i>communications costs.</i> (5) <i>cost of reports production (including printing) and delivering to the Procuring Entity.</i> (7) <i>other allowances were applicable and provisional or fixed sums (if any)]</i> (8) <i>[insert relevant type of expenses, if/as applicable]</i>
16.2	A price adjustment provision applies to remuneration rates: No
16.3	"Information on the Consultant's tax obligations in the Procuring Entity's country can be found on the Kenya Revenue Authority website: www.kra.go.ke
16.4	The Financial Proposal shall be stated in the following currencies: Consultant may express the price for their Services in any fully convertible currency, singly or in combination of up to three foreign currencies. The Financial Proposal should state local costs in Kenya Shillings: Yes C.

Submission, Opening and Evaluation

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
17.1	The Consultants [“shall not”] have the option of submitting their Proposals electronically.
17.5	The Consultant must submit: (a) Technical Proposal: one (1) original and [One 1] copy. (b) Financial Proposal: one (1) original.
18.5	The Proposals must be submitted no later than: Date: 5th JUNE 2026 Time: “10:00am East African Time” The Proposal submission address is: Address On or before: 5th JUNE 2026
20.1	An online option for the opening of the Technical Proposals is offered: No The opening shall take place at: ----- Date: 5th June 2026 Time: [10:10am East African Time”]
20.2	[“Not Applicable”]
22.1	Eligibility and mandatory criteria shall be:

EVALUATION CRITERIA

The following requirements must be met by the tenderer notwithstanding other requirements in the tender documents: -

a) MANDATORY REQUIREMENTS (MR)

No.	Requirements	Responsive or Not Responsive
MR 1	The Tenderer shall submit, as mandatory requirements, copies of the following valid documents: (i) Certificate of Incorporation/Registration, (ii) Valid KRA Tax Compliance Certificate, (iii) current CR12 or equivalent register of directors/shareholding issued not more than 3 months before tender submission, (iv) Confidential Business Questionnaire duly completed, signed and stamped, and (vi) valid self-declaration forms on debarment and anti-corruption	
MR 2	Submission, original & copy of tender document properly BOUND and PAGINATED/SERIALIZED in the correct sequence (1,2,3), all pages and attachments	
MR 3	The Tender shall be accompanied by a Tender Security of Kenya Shillings Three Hundred Thousand (KES 300,000) in the form specified in the Tender Data Sheet, valid for the tender validity period plus one fifty (150) days.	
MR 4	Professional Indemnity Cover of at least KShs. 800,000,000.00	
MR 5	Registration with Valuers Registration Board and Institute of Surveyors of Kenya	
MR 6	Current and Valid Practicing License from VRB (Valuers Registration Board) for at least 2 valuers	

MR 7	The Tenderer shall submit audited financial statements for the last three completed financial years (2023,2024,2025) signed and stamped by independent auditors duly authorized to practice, to demonstrate financial soundness and going-concern capacity.	
MR 8	Current Letter of Good Standing from the Institute of Surveyors of Kenya	
MR 9	The Tenderer shall provide a duly executed Power of Attorney or Board Resolution authorizing the named signatory to sign and submit the Tender and, if successful, to execute the contract on behalf of the Tenderer	
MR 10	Financial Proposal with a clear breakdown of cost.	
MR 11	Technical proposal detailing work Methodology, work plan and deliverables and clear timelines.	
MR 12	The Tenderer must disclose all ongoing or concluded regulatory actions, investigations, sanctions, arbitration, litigation, or adverse findings in the last five (5) years that may affect its suitability, reputation, fiduciary standing, or ability to deliver the mandate.	

**At this stage, the tenderer's submission will either be responsive in all the mandatory (MR) requirements above or non-responsive.
The non-responsive submissions will be eliminated from the entire evaluation process and will not be considered further.**

TECHNICAL EVALUATION CRITERIA

S/No	CRITERIA	SCORE
1	The Bidder should have been in business for a period of at least ten (10) years in provision of Valuation services in general. (2 Marks)	2
2	<p>Specific experience of the Consultant (as a firm) relevant to the Assignment: The consultant must demonstrate experience in carrying out valuations. services for comparable clients and other institutions in the last 5 years (2021 to date).</p> <p>a) Provide proof of provision of Valuation services to one (1) client of Assets value of at least 3 billion. Support documents e.g., Copy of invoice or signed contract [2marks] Current reference letters addressed to Chairman Board of Trustees in relation to (i) above. [3marks] (iii) A reference from client of Assets Base of less than 3 billion will earn [1 Mark each]</p> <p>b) Provide proof of provision of Valuation services to one (1) Government Institution. (i) Support documents e.g., Copies of invoices, signed contracts (2marks). (ii) Current reference letters addressed to in relation to (i) above. (3marks).</p> <p>c) Provide proof of provision of Valuation services to one (1) client with properties spread countrywide. (i) Support documents e.g., Copies of invoices, signed contracts (2marks each). (ii) Current reference letters addressed to in relation to (i) above. (3marks each).</p> <p>d) Provide proof of provision of Valuation services to two (2) commercials</p>	30

	<p>buildings (Min. lettable area of 100,000 Sf).</p> <p>(i) Support documents e.g., Copies of invoices, signed contracts (2marks each).</p> <p>(ii) Current reference letters addressed to Chairman Board of Trustees in relation to (i) above. (3marks each).</p>	
3	<p>Proof of adequate establishment (qualification and competence) including number and profiles of key personnel to undertake the assignment (Attach signed CVs in the format provided in Technical Proposal and evidence of current membership with professional bodies). The personnel required for This assignment (Minimum 5) should have extensive theoretical and practical experience in Valuation.</p> <p>a) Managing Partner for this assignment must possess, a Land Economics Degree, Dip in Valuation & Property Management, Letter of good standing (ISK), valid Current Practicing Certificate by VRB and must have over 20 Years of relevant experience. [10 marks]</p> <p>b) Chief Valuer/ Head of Valuation In charge of the assignment must possess; a bachelor's degree in relevant field, Valid Letter of good standing (ISK), valid Current Practicing Certificate by VRB and Must have over 15 Years of relevant experience. [10 marks]</p> <p>c) Senior Valuer must possess a bachelor's degree, practicing license from VRB and with 4 years' relevant experience. [8 marks]</p> <p>d) Two (2) no. of Technical Staff with bachelor's degree, and with 2 years' relevant experience. [4 marks each]</p>	26
4	<p>Attach copies of firm's latest three (3) audited financial statements indicating the Balance sheet, Profit & Loss account, and Cash flow statements for each financial year 2023-2025</p> <p>a) Current ratio of 2:1- 6mks</p> <p>b) Positive net cash flow from operating activity from the last 3years- 6mks</p> <p>c) Debt equity ratio 60:40- 6mks</p> <p>d) Profitability margin Above 10% - 4 mks Below 10% - 0 mks</p>	22
5	<p>Adequacy of the proposed Methodology and Work Plan in responding to the Terms of Reference. The consultant should capture in the proposal how the following will be handled:</p> <p>a) Bidder to explain and illustrate valuation process (how you will execute the valuation process) – valuation program/plan, notice, of commencement/entry, meeting, execution/ valuation exercise, title searches, analysis/preliminary presentation of findings and final reporting. (15 Marks)</p> <p>b) Analysis on how the tasks will be carried out, interconnectivity and well-articulated Gantt chart (5 Marks)</p>	20
	TOTAL	100

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>[Notes to Consultant: The ----- shall assess whether the proposed methodology is clear, responds to the TORs, work plan is realistic and implementable; overall team composition is balanced and has an appropriate skill mix; and the work plan has right input of Experts]</p> <p>Total points for criteria: [100]</p> <p>The minimum technical score (St) required to pass is: [75Points]</p> <p>Note: Each responsive proposal will be given a technical score (St). Only Tenderers who score 75% and above will be technically responsive and therefore shall qualify for the final stage of the financial evaluation. A proposal shall be rejected if it fails to achieve the minimum</p>
	<p>technical score A tender shall be rejected at this stage if it fails to achieve the above minimum.</p>
23.4	<p>An online option of the opening of the Financial Proposals is offered: No</p>
25.2	<p>For the evaluation, the Procuring Entity will include separate items of: (a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract's invoices; and (b) all additional local indirect tax on the remuneration of services rendered by experts.</p> <p>If a Contract is awarded, at Contract negotiations, all such taxes will be discussed, finalized using the itemized list and included in the Contract amount as a separate line, also indicating which taxes shall be paid by the Consultant and which taxes are withheld and paid by the Procuring Entity on behalf of the Consultant.</p>
26.1	<p>The single currency for the conversion of all prices expressed in various currencies into one is: [Kenya Shillings]</p> <p>The official source of the selling exchange rate is: CBK prevailing Rate</p> <p>The date of the exchange rate is: [The date for the deadline for submission of proposals]</p> <p style="text-align: center;">-</p>
29.1 (LCS only)	<p>The lowest evaluated Financial Proposal (Fm) will be invited for negotiation.</p>

The Standstill Period shall be: **14 days**

The procedures for making a procurement related complaint are detailed in the Public Procurement and Asset Disposal Act and Regulations. If a Consultant wishes to make a procurement related complaint or appeal, the Consultant shall submit its complaint to the Public Procurement Administrative Review Board.

D. Negotiations and Award

32.1	Expected date and address for contract negotiations: Date: Address: -----
35.2	Expected date for the commencement of the Services: Date:
36.1	The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as follows: The publication will be made within 14 days after the contract signing
37.1	<p>If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to:</p> <p>For the attention: <i>[The Trust Secretary]</i></p> <p>Procuring Entity: <i>[------]</i></p> <p>Email address:</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ul style="list-style-type: none"> (i) the terms of the Tender Documents; and (ii) the Procuring Entity's decision to award the contract.

3) SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS 3.1

FORMTECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

To: **The Administrator/Trust Secretary**

Dear Sirs:

We, the undersigned, offer to provide consulting services for the **Valuation of properties for purposes of ascertaining the book value, sale, and insurance** in accordance with your RFP dated [_____] and our Proposal. We are hereby

submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope.

{If the Consultant is a joint venture, insert the following: We are submitting us

Proposal in association/as a consortium/as a joint venture with: {Insert a list with full name and the legal address of each member and indicate the lead member}. We have attached a copy {insert: "of our letter of intent to form a joint venture" or, if a JV is already formed, "of the JV agreement"} signed by

every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

OR

{If the Consultant's Proposal includes Sub-consultants, insert the following:} We are submitting our Proposal with the following firms as Sub-consultants: {insert a list with full name and address of each Sub-consultant.}

We hereby declare that:

- a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Procuring Entity.
- b) Our Proposal shall be valid and remain binding upon us for the period specified in the Data Sheet, Clause 12.1.
- c) We have no conflict of interest in accordance with ITC3.
- d) We meet the eligibility requirements as stated in ITC6, and we confirm our understanding of our obligation to abide by the Government's policy regarding corrupt, fraudulent, and prohibited practices as per ITC5.
- e) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, as well as laws against anti-competitive practices, including bid rigging in force in Kenya; we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption or anti-competitive practices.
- f) We confirm that we are not insolvent, in receivership, bankrupt or on the process of being wound up.
- g) The Consultant shall declare in the Technical Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery,

as well as against anti-competitive practices including bid-rigging.

- (h) We are not guilty of any serious violation of fair employment laws and practices. We undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against collusive and anti-competitive practices, including bid rigging. To this effect we have signed the "Certificate of Independent Proposal Determination" attached below. We also undertake to adhere by the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from

(Specify website) during the procurement process and the execution of any resulting contract.

- (i) We, along with any of our sub-consultants are not subject to and not controlled by any entity or individual that is subject to, a temporary suspension.
- (e) Except as stated in the ITC12 and Data Sheet, we undertake to negotiate a Contract based on the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause12 andITCClause29.3 and 29.4 may lead to the termination of Contract negotiations.
- (j) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (k) We understand that the Procuring Entity is not bound to accept any Proposal that it receives.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 32.2 of the Data Sheet.

We remain,

Yours sincerely,

Authorized Signature _____

Name and Title of Signatory:

Name of Consultant (*company's name or JV's name*):

Contact information (*phone and e-mail*):

3.1.1 CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION

I, the undersigned, in submitting the accompanying TECHNICAL PROPOSAL SUBMISSION FORM to -----
----- for Valuation of properties for purposes of ascertaining the book value, sale and Insurance as per the
Terms of References (ToRs) provided: in response to the request
For tenders made by

[Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____ *[Name of*

Tenderer] that:

- 1) I have read and I understand the contents of this Certificate.
- 2) I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect.
- 3) I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer.
- 4) For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether affiliated with the Tenderer, who:
 - a. Has been requested to submit a Tender in response to this request for tenders.
 - b. could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities, or experience.
- 5) The Tenderer discloses that [check one of the following, as applicable]:
 - a. The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement, or arrangement with, any competitor.
 - b. The Tenderer has entered consultations, communications, agreements, or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements.
- 6) Without limiting the generality of paragraphs(5)(a) or (5) (b)above, there has been no consultation, communication, agreement, or arrangement with any competitor regarding:
 - a. prices.
 - b. methods, factors, or formulas used to calculate prices.
 - c. the intention or decision to submit, or not to submit, a proposal; or
 - d. the submission of a proposal which does not meet the specifications of the request for proposals; except as specifically disclosed pursuant to paragraph(5)(b) above.
- 7) In addition, there has been no consultation, communication, agreement, or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this RFP relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph(5)(b) above.
- 8) The terms of the RFP have not been, and will not be, knowingly disclosed by the Consultant, directly or indirectly, to any competitor, prior to the date and time of the official proposed opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph(5)(b) above.

Name

Title

Date

[Name, title and signature of authorized agent of Consultant and Date]

3.1.2 APPENDIX TO FORM OF PROPOSAL ON FRAUD AND CORRUPTION CLAUSE (for information)

Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts ,and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (*no.33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- (1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive, or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding.
- (2) A person referred to under sub section (1) who contravenes the provisions of that sub-section commits an offence.
- (3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
 - a) disqualified from entering a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be avoidable.
- (4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have.
- (5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement—
 - i) Shall not take part in the procurement proceedings.
 - ii) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
 - iii) Shall not be a sub-contractor for the tender to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the sub-contractor appointed shall meet all the requirements of this Act.
- (6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity.
- (7) If a person contravenes sub section (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated, and all costs incurred by the public entity shall be made good by the awarding officer.
- (8) Incompliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
- i) "Corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party.
 - ii) "Fraudulent practice" is any act or omission, including misrepresentation, that knowingly or
 - iii) recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation.
 - iv) "Collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party.
 - v) "Coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.
 - vi) "Obstructive practice" is:
 - i) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - ii) Acts intended to materially impede the exercise of the or the appointed authority's inspection and audit rights provided for under paragraph 2.3e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows: "fraudulent practice" includes misrepresentation of fact to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal or award of a contract if determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question.
- d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations.
- e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agent's personnel,

permit the or any other appropriate authority appointed by Government of Kenya to inspect²all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the or any other appropriate authority appointed by Government of Kenya; and

- f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

¹For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in A consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and(ii) entering an addendum or amendment introducing a material modification to any existing contract.

² Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies there of as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

3.2 FORM TECH-2: CONSULTANT'S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the Consultant's organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant's Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.

A - Consultant's Organization

Provide here a brief description of the background and organization of your company, and-in case of a joint venture of each member for this assignment.

B - Consultant's Experience

1. List only previous **similar** (see pg. 23 for guidance) assignments successfully completed in the last [Five] years.
2. List only those assignments for which the Consultant was legally contracted by the Procuring Entity as a company or was one of the joint venture partners.
 Assignments completed by the Consultant's individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant's partners or sub-consultants, but can be claimed by the Experts themselves in their Curriculum Vitae (CV).
3. The Consultant shall substantiate their claimed experience by presenting copies of relevant documents such as the form of contract (not the whole contract), performance certificate, reference letter etc., which shall be included in the proposal as part of *Form Tech 7 Mandatory Documentary Evidence*.

Assignment name:	Approx. value of the contract [KES, US\$ etc.]:
Country:	Duration of assignment (months):
Name of Procuring Entity:	Total No of staff-months of the assignment:
Contact Address: Email:	Approx. value of the services provided by your firm under the contract:
Start date (month/year): Completion date:	No of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g., Lead Member in ABC JV, or Sole Consultant):	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Assignment:	
Description of actual services provided by your staff within the assignment:	
Name of Consulting Firm: of Signatory:	Name and Title

3.3 FORMTECH-3: COMMENTS AND SUGGESTIONS

Form TECH-3: The Consultant to provide comments and suggestions on the Terms of Reference, counterpart staff and facilities to be provided by the Procuring Entity that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Procuring Entity, including: administrative support, office space, local transportation, equipment, data, etc.

A - On Terms of Reference

{Improvements to the Terms of Reference, if any}

B - On Counterpart Staff and Facilities

{Include comments on counterpart staff and facilities to be provided by the Procuring Entity. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}

3.4 FORMTECH-4: DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN

Form TECH-4: a description of the approach, methodology and work plan in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{The structure of your Technical Proposal:

a) Technical Approach and Methodology

b) Work Plan _____

c) Organization and Staffing}

i) *Technical Approach and Methodology. {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TOR sign here.}*

ii) *Work Plan. {Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Procuring Entity), and tentative delivery dates of their parts. The proposed work plan should be consistent with the technical approach and methodology,*

showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.}

iii) *Organization and Staffing. {Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff.}*

3.5 FORM TECH-5: WORK SCHEDULE AND PLANNING FOR DELIVERABLES

Reports	Days/ weeks after commencement of assignment
1. Inception Report	
2. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	

3.6 FORMTECH- 6A: TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

Name	Position	Task

3.6.1 FORM TECH-6B: CURRICULUM VITAE (CV)

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years of Experience: _____

Years with Firm: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

Give an outline of staff member's experience and training most pertinent to tasks on assignment.

Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions

held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Procuring Entity, and/or sanctions by the.

_____ Date: _____

[Signature of staff member]

_____ Date: _____

[Signature of authorized representative of the firm]

Full name of staff member:

Full name of authorized representative: _____

3.7 FORMTECH-7: MANDATORY SUPPORT DOCUMENTS

[The Consultant shall use this form to submit all the required support documentary evidence as required in the RFP, especially the mandatory and eligibility criteria specified in the Data Sheet ITC 21.1]

- a) Certificate of Incorporation/Certificate of Registration
{Insert here a copy of certificate of incorporation or registration}
- b) Tax Compliance Certificate
{Consultant to insert a copy of the tax compliance certificate from Kenya Revenue Authority or similar body in the case of foreign consulting firms}
- c) Practice License or Certificate for the Firm
{If required, Consultant to insert a copy of the firm's practice license or registration certificate issued by the professional body specified under Data Sheet ITC 21.1}
- d) Similar Consulting Assignments Experience

{Consultant to insert here copies of the form of contract, purchase order, service order, and performance certificate, reference letter addressed to ----- or similar evidence of similar assignments carried out by the firm. The assignments shall be the same as those provided under FORM TECH 2B}
- e) Academic Certificates
{Consultant to insert copies of the required relevant academic certificates relevant to the assignment for all the key experts}
- f) Professional Certificates
{Consultant to insert copies of professional certificates and relevant short-term trainings to demonstrate professional qualifications for all the key experts}
- g) Professional Membership of Key Experts
{If applicable, Consultant to insert copies of professional membership certificate for its key experts}
- h) Certificate of Independent Proposal Determination

(The Form is available on Tech FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM).

3.8 FORM TECH - 8: SELF-DECLARATION FORMS

3.8.1 FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,
.....
of Post Office Box being a

resident of.....in the

Republic of do hereby make a statement as follows: -

1. THAT I am the Company Secretary/Chief Executive/Managing Director/Principal Officer/Director of (Insert name of the Company) who is a Bidder in respect of **for**.....

(Insert tender title/description) for..... (Insert name of the Procuring entity) and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its directors, and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to here in above is true to the best of my knowledge, information, and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

.....
Bidder Official Stamp

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I, of P.O. Box.....being a resident of
..... in the Republic of do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of.....
..... (*insert name of the Company*) who is a Bidder in respect of **Tender No.**
..... for (*Insert tender title/description*)
for (*Insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/ or agents of..... (*Insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*Name of the procuring entity*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

.....
Bidder Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I (person)

on behalf of **(Name of the Business/ Company/Firm)** declare that I

have read and fully understood the contents of the Public Procurement & Asset Disposal Act,2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya and my responsibilities under the Code.

I do here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized

signatory.....

Sign.....

Position.....

Office address.....

Telephone.....

E-mail.....

Name of the

Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name

.....

Sign.....

Date.....

3.9 FORM TECH - 9: TENDER-SECURING DECLARATION FORM {r 46 and 155(2)}

[The Bidder shall complete this Form in accordance with the instructions indicated]

Date: [insert date (as day, month and year) of Tender Submission]

Tender No.: [insert number of tendering process]

To: [insert complete name of Purchaser]

I/We, the undersigned, declare that:

1. I / We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.

2. I /We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser or the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation (s) under the bid conditions, because we—(a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.

3. I / We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer (s), upon the earlier of:
 - a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
 - b) Thirty days after the expiration of our Tender.

4. I/We understand that if I am /we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:

.....

Capacity / title (director or partner or sole proprietor, etc.....)

Name.....

Duly authorized to sign the bid for and on behalf of: [insert complete

name of Tenderer] Dated on day of [Insert date of signing]

Seal or stamp

3.10 FORM TECH - 10: MANDATORY BUSINESS QUESTIONNAIRE

Name of Applicant(s).....

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type

You are advised that it is a serious offence to give false information on this form and shall lead to automatic disqualification/termination of your business proposal at your cost.

Part 1 General

Business Name	
Location of Business Premises	
Email	
Nature of Business (Attach Company Profile)	
Registration Certificate No. (Attach Copy)	
Tax Compliance No (Attach Copy)	
Maximum value of business which you can handle at any one time – Ksh	
Name of your bankers	
Branch	
Bank Account Number	

Payment Terms

Part 2

(a) – Sole Proprietor

Your name in full	
Age	
Nationality	
Country of Origin	
Citizenship details	

If a Kenyan Citizen, indicate under Citizenship Details whether by Birth, Naturalization or Registration

(b) – Partnership

Given details of partners as follows

Name	Nationality	Citizenship Details	Shares
1.....			
2.....			
3.....			
4.....			

If a Kenyan Citizen, indicate under Citizenship Details whether by Birth, Naturalization or Registration

.....

.....			
Part 2 (c) – Registered Company	Attach a copy of the CR12		
Private or Public (Attach brochures or annual reports in case of public companies) State the nominal and issued capital of company Nominal Kshs. Issued Kshs. Give details of all directors as follows			
Name	Nationality	Citizenship Details	Shares
1.....
.....
2.....
.....
.....			
3.....
.....
.....			
Part 3- List of corporate client customers and their addresses, telephone numbers and contact person.			
1. Company			
Contact			
Person			
Tel/Mobile			
2. Company			
Contact			
Person			
Tel/Mobile			
3. Company			
Contact			
Person			
Tel/Mobile			
4. Company			
Contact			
Person			
Tel/Mobile			
Part 4-(a) Debarment			
I/We declare that [insert name of the Bidder] , its proprietor(s), Agents, Sub-Consultants, Sub-Contractors, Consortium and Joint Venture partners have not been debarred from any procurement process and have not engaged nor shall engage in any fraudulent, corrupt, collusive, coercive or obstructive practices in connection with the present procurement process or any other tender by ----- and any other public or private institutions.			

I/We declare that **[insert name of the Bidder]**, its proprietor(s), Agents, Sub-Consultants, Sub-Contractors, Consortium and Joint Venture partners are not subject to a debarment recognized under the Public Procurement Regulatory Authority and the Agreement for Mutual Enforcement of Debarment Decisions (the 'Cross-Debarment Agreement')¹ Full

Names.....

Signature.....

Dated this day of2021

In the capacity of.....

Duly authorized to sign Tender for and on behalf of

Part 4-(b) Bankruptcy / Insolvency / Receivership.

I/We declare that I/We have not been declared bankrupt or insolvent by the competent Authorities in Kenya and neither are we under receivership:

Full Names.....
.....

Signature.....
.....

Dated thisday of2022

Duly authorized to sign Tender for and on behalf of

Part 4-(c) -Criminal Offence

I/We,(Name (s) of Director(s)):-

a).....
.....

b).....
.....

c).....
.....

certify that [insert name of the Bidder], its proprietor(s), Agents, Sub-Consultants, Sub-Contractors, Consortium and Joint Venture partners are not subject to a criminal conviction, administrative sanctions and/or temporary suspensions for engaging in fraudulent, corrupt, collusive, coercive, or obstructive practices. I/We further certify that [insert name of the Bidder], its proprietor(s), Agents, Sub-Consultants, Sub-Contractors, Consortium and Joint Venture partners have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to the qualifications of [insert name of the Bidder] to enter into a procurement contract within a period of three (3) years preceding the commencement of procurement proceedings.

Signed.....
.....

For and on behalf of
M/s.....

In the capacity of
.....

Dated thisday of2022

Suppliers' / Company's Official Rubber Stamp
.....
.....

Part 4-(d) Conflict of Interest

I/We, the undersigned state that I / We have no conflict of interest in relation to this procurement:

a)

b)

c)

Further, I/We declare that [insert name of Bidder], its proprietor(s), Agents, Sub-Consultants, Sub-Contractors, Consortium and Joint Venture partners have no actual or potential conflict of interest² that could impact their ability to serve the best interest of -----

For and on behalf of

M/s.....

In the capacity of

Dated thisday of2021

Suppliers' / Company's Official Rubber Stamp

2 Conflicts of interest arise where private or personal interests of a bidder may influence or appear to influence the impartial and objective performance of their duties. Private or personal interests include situations where a bidder appears to benefit improperly, directly, or indirectly, or allows a third party to benefit improperly, from their association with an enterprise or organization that engages in business directly or indirectly with the Project.

Part 4-(e) – Interest in the Firm:

Are there any person/persons in ----- or any other public institution who has interest in the Firm?

Yes/No (Delete as necessary)

Institution

(Title) (Signature) (Date)

Part 4-(f) – Gratuities, Fees, Commissions and Gifts:

I/We, the undersigned certify that no gratuities, fees, commissions, gifts or anything else of value have been paid or exchanged by [insert name of Bidder] or are to be paid or exchanged by [insert name of Bidder] with respect to the present bidding process.

OR

[to be completed only if previous box was not checked]

I/We, the undersigned declare that the following gratuities, fees, commissions, gifts or anything else of value have been exchanged, paid by [insert name of Bidder] or are to be exchanged or paid by [insert name of Bidder] with respect to the present bidding process:

- [Name of Recipient/Address/Date/Reason/Amount]

- [Name of Recipient/Address/Date/Reason/Amount]

- [Name of Recipient/Address/Date/Reason/Amount]

Part 5(l) – Experience

Please list here below similar projects accomplished or companies / clients you have supplied with similar items or materials / services in the last 5 years

#	Company Name	Contract/ Order No	Value	Contact Person	Email	Phone Number
1						
2.						
3.						
4.						
5.						

Part 6(i or j) – Bank account details:

AGPO firms must provide evidence from their bank that the account to which ----- shall make payment has a youth or a woman or a PWD listed in the CR12 form/partnership deed/sole proprietor certificate as a MANDATORY signatory of that account,

- Sec.157 (11) of PPADA:

Account No.....

Name of the person(s) in the CR12 form OR in the partnership deed OR in the sole proprietor
Certificate...../.....
ID No(s):...../.....Signature and stamp of the authorized Banker

Part 7—Declaration

I/We the undersigned certify that I/We are the authorized representative of **[Name of the Bidder]**, as well as that the information provided above is true and accurate in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may result in sanctions and remedies, including the permanent ineligibility to participate in ----- activities I/We give ----- permission to seek any other references concerning my/our company from whatever sources deemed necessary (e.g. company registrar’s office, banks etc.).

Full name/s
.....

Signature/s.....

For and on behalf of M/s
.....

In the capacity of
.....

Date..... Signature of Candidate.....

4) SECTION 4. FINANCIAL PROPOSAL - STANDARD FORMS

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in Section 2.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

4.1 FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM

..... {Location, Date}
To: [Name and address of Procuring Entity]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for.....
[Insert title of assignment]
in accordance with your Request for Proposal dated..... [Insert Date] and us
Technical Proposal.

Our attached Financial Proposal is, including of all taxes in
accordance with ITC24.2 in the Data Sheet. The estimated amount of local taxes
is..... {Insert currency} {Insert amount in words and figures}.
{Please note that all amounts shall be the same as in Form FIN-2}.
Our Financial Proposal shall be valid and remain binding upon us, subject to the modifications resulting from
Contract negotiations, for the period specified in the ITC12.1 Datasheet.

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or
submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address, Amount and Purpose of Commission of Agents, Currency, or Gratuity

{If no payments are made or promised, add the following statement: "No commissions or gratuities have been or
are to be paid by us to agents or any third party relating to this Proposal and Contract execution."}

We understand you are not bound to accept any
Proposal you receive. We remain,
Yours sincerely,

..... (Of Consultant's authorized representative) {In full and initials}:

Signature..... Full
name: {insert full name of authorized representative} Title: {insert
title/ position of authorized representative}
Name of Consultant..... (company's name or JV's name): Capacity:
{insert the person's capacity to sign for the Consultant} Physical Address: {insert
the authorized representative's address}
Phone: {insert the authorized representative's phone and fax number, if
applicable}
Email: {insert the authorized representative's email address}

{For a joint venture, either all members shall sign or only the lead member/consultant, in which case the power
of attorney to sign on behalf of all members shall be attached}

4.2 FORM FIN-2: SUMMARY OF COSTS

PRICE SCHEDULE		
S/NO	DESCRIPTION	COST VAT INC
1	DISBURSEMENTS	
2	PROFESSIONAL FEE	

NB: PROFESSIONAL FEE WILL BE BASED ON VALUERS' SCALE OF FEES UNDER VALUERS' ACT CAP 532 LAWS OF KENYA.

PROPERTIES VALUATION SCOPE OF WORK

1. Current market valuations of the properties for both sale and book purposes separating value of land and improvements thereon for both commercial and residential properties.
2. Valuations for insurance purposes (buildings) and determination of the correct Insurable value
3. Carrying out due diligence in land registries to establish current encumbrances, cautions, prohibitions, or caveats.
4. Copy of certificate of official search, Confirmation of Current survey Maps (RIM and FR), property details verification up to and including size.
5. Sketch map/ Site Map, and digital photos etc.
6. Advise on property reserve prices for purposes of sale through Auction.
7. Valuation of parcels of land that are likely to be acquired by KENHA or any other government agency and advise on compensation claim.
8. Confirmation with the road authorities, i.e., KURA, KENHA, KERRA or ministry of roads, that there are no planned roads that might affect the scheme's properties in the foreseeable future.
9. Carry out a Title Verification exercise to establish ownership of the Properties

Assess the competitiveness of the Scheme properties in relation to similar properties in the market; and

Recommended property and/or infrastructural improvements to for better market rental rates and meet statutory conditions on rental properties.

Provide information on any hazards and risks on or in the properties such as general housekeeping issues, occupancy, building condition (repair or maintenance such), or presence of high hazard occupancy.

A description of deferred maintenance or property obsolescence if any.

12. Adhere to the relevant Physical Development Plans, Land Valuation quality standards and regulations as clearly stated in the Land Value (Amendment) Act No. 15 of 2019.

Reports:

The Consultants will prepare and submit the following reports to Trustees of KPA Pension Scheme in English.

- a) Inception Report at the commencement of the work, providing a clear understanding of the project scope and target objectives, as well as the relevant types and sources of data required and the methodology to be used;
- b) First Draft Report at the time specified in the project schedule attached;
- c) Mid-Term Report at the end of the consultative process;
- d) Draft Final Report; and
- e) Final Report within one (1) month after the receipt of the comments on the Draft Final Report and finalization of all reviews and corrections.

Specified Key Personnel Expertise Expectations

Position	Expertise Expectations
Valuer	<ul style="list-style-type: none"> • A university degree in Real Estate Management or other relevant field. • Must be a Registered Valuer • Must be a member of Institution of Surveyors of Kenya or Kenya Valuers and Estate Agents • Must have a valid practicing license • A minimum of 15 years' experience in Real Estate Management., The consultant MUST have demonstrated experience in port demand forecasting, market, and revenue analysis. • Good English communication and writing skills, especially in report writing, are essential

PROJECT SCHEDULE AND EXPECTED OUTPUT

The consultancy service is expected to span a period of Two (2) months from the date of commencement. These may be broken down into critical milestone steps by the consultant with a clear outline of when KPA Pension Scheme should expect deliverables for sign off.

During the assignment period, the consultant is expected to work side by side with KPA Pension Scheme staff and their authorized agents. The consultant shall also submit regular progress reports to the Scheme. The general deliverables of the project are as presented in the table below. The Valuing Firm shall submit an Inception Report including an updated detailed work plan for implementation, covering tasks and responsibilities of all parties involved, not just the personnel.

Every two weeks thereafter the Consulting Firm will hold progress meetings, with Scheme Trustees or appointed staff, to discuss any key constraints encountered, work planned for the subsequent period, inputs and support needed from the Trustees, staff, authorized agents, and other parties and will update the work plan accordingly.

No.	Deliverable	Due Date From Commencement
1.	Inception Report	2 weeks
First Stakeholders Meeting		
2.	Draft Report	4 weeks
Second Stakeholders Meeting		
3.	Final Report	6 weeks
Internal Review and Validation		
6.	Printed Valuation Report	8 weeks

All reports shall be submitted to KPA Pension Scheme and printed and bound in 5 copies. Models and workflow, process and data diagrams shall be submitted electronically in their appropriate dynamic application files.

The Consultant, in close coordination with KPA Pension Scheme, shall conduct quality reviews to obtain feedback on all draft versions of deliverables as appropriate. He/she shall make presentations to KPA Pension Scheme on each deliverable with the team's key experts present.

The terms of reference about the valuation and asset verification of the assets is to get a professional opinion on the following: -:

- 5.1.1.1 Provide Open Market Value of the assets, for both Book and Sale purposes
- 5.1.1.2 Advice on the correct Insurable value for the assets
- 5.1.1.3 Carry out a Title Verification exercise to establish ownership of the assets
- 5.1.1.4 Detailed inventory of land and buildings
- 5.1.1.5 Carry out property details verifications up to and including size, any changes in occupancy, land use, new developments etc.
- 5.1.1.6 Summary of Key assets which should include a description of the asset, design, functionality and current use or application of the asset with remarks on their viability from investment perspective. Indicate Rate of Return where applicable
- 5.1.1.7 Provide current gross replacement costs and depreciated replacement costs (Insurance Values) for all the assets (buildings, plant, and machinery)
- 5.1.1.8 Carry out a Title Verification for all assets and include the following information in the report
 - a) L.R. Number and/ or I.R Number
 - b) Size of land
 - c) Tenure
 - d) Current encumbrances/cautions/prohibitions/restrictions/caveats
 - e) Location Map (Google Earth Map)
 - f) Google Map Coordinates
 - g) Registered Owner and title official search
 - h) Availability of Ownership Documents
 - i) Confirmation of current survey maps (RIM and FR)
 - j) Current Occupants/tenants
 - k) Confirmation of building plans for commercial property

5.1.2 Properties

List of the Properties to be valued is attached as a separate appendix.

5.1.3 Role of the Consulting Firm

- 5.1.3.1 Undertake the implementation of the project as per the Project Objectives and Scope.
- 5.1.3.2 Provide sufficient responses to the ToRs.
- 5.1.3.3 Provide information about referees, experience, past assignments, and capacity on a timely basis when required to do so
- 5.1.3.4 Enter into a Non-Disclosure Agreement with the Authority
- 5.1.3.5 Provide a dedicated, competent, and reliable team for the consultancy and consult -----
of any changes in staff in good time.
- 5.1.3.6 Avail the team on-site as and when required.
- 5.1.3.7 Bear costs of consultancy information, documentation, and reporting.
- 5.1.3.8 Clear work plan and methodical approach for the implementation of identified projects.
- 5.1.3.9 Keep ----- always updated on new market trends that may affect the nature of the
assignment.
- 5.1.3.10 Adhere to the regulations and policies of the -----

5.1.4 Role of Procuring Entity

- 5.1.4.1 Orientation of the Consultant(s) after tender award.
- 5.1.4.2 Avail resource team to liaise with the Consultant
- 5.1.4.3 Support for the project (Consultant) from Senior Management.

- 5.1.4.4 Sensitization of staff on the project for maximum co-operation.
- 5.1.4.5 Timely provision of information and policies and quick turn-around time on communication.
- 5.1.4.6 Timely payment of the Consultant's price upon satisfactory conclusion of the agreed deliverables.
- 5.1.4.7 Prompt interventions in the event of challenges encountered during the project implementation.

5.2 Methodology

- 5.2.1 The firm is expected to understand the key activities and deliverables and provide Proposal that includes the following contents.
- a) Introduction and background in relation to the rendering of the specific services.
 - b) Interpretation of the above Terms of Reference
 - c) At least 3 case studies of previous work done demonstrating the services for a
 - d) Agency or private company as mentioned above. The case studies should cover the following.
 - e) Description of the service provided
 - f) Model of project implementation plan in relation to the services provided.

5.3 The Expected Deliverables of the Consultancy

- a) Inception report after the planning meetings indicating the revised work plan to execute the project
- b) A Draft Market and Insurance valuation report and certificate of value as derived from the physical inspection of all the assets and documents related to the same assets.
- c) Final Reports upon final discussions and conclusion
- d) Title Search documents for all properties

5.4 The Duration of the Consultancy

It is envisaged that the entire implementation duration will be a maximum of **90 days** from the date the contract is signed.

5.5 Milestone/Deliverable based payments

Payments for this assignment will be upon successful completion of the exercise.

6) SECTION 6. THE CONTRACT FORM 6.1

FORM OF CONTRACT - LUMP-SUM

This CONTRACT (herein after called the "Contract") is made the [number] day of the month of [month], [year], between, on the one hand, [name of Procuring Entity] (herein after called the "Procuring Entity") and, on the other hand, [name of consultant] (herein after called the "Consultant").

[If the Consultant consists of more than one entity, the above should be partially amended to read as follows: "... (hereinafter called the "Procuring Entity") and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Procuring Entity for all the Consultant's obligations under this Contract, namely, [name of member]and [name of member] (herein after called the "Consultant").]

WHEREAS

- a) The Procuring Entity has requested the Consultant to provide certain consulting services as defined in this Contract (herein after called the "Services");
- b) the Consultant, having represented to the Procuring Entity that it has the required professional skills, expertise, and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract.
- c) the Procuring Entity has set aside a budget and funds toward the cost of the Services and intends to apply a portion of these funds towards payments under this Contract; NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached here to shall be deemed to form an integral part of this Contract:

- a) The General Conditions of Contract.
- b) The Special Conditions of Contract.
- c) Appendices:
 - . Appendix A: Terms of Reference
 - . Appendix B: Key Experts
 - . Appendix C: Breakdown of Contract Price
 - . Appendix D: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract; Appendix A; Appendix B; Appendix C; Appendix D. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Procuring Entity and the Consultant shall be asset for thin the Contract, in particular:

- a) The Consultant shall carryout the Services in accordance with the provisions of the Contract; and
- b) the Procuring Entity shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties here to have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of..... [Name of
Procuring Entity] [Authorized Representative of the
Procuring Entity–name, title and signature]

For and on behalf of..... [Name of Consultant or Name of a
Joint Venture] [Authorized Representative of the Consultant–name and signature]

[Note: For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]

For and on behalf of each of the members of the Consultant..... *[Insert the Name of the Joint Venture] [Name of the lead member]*

[Authorized Representative on behalf of a Joint Venture] [Add signature blocks for each member if all are signing]

7) SECTION 7: GENERAL CONDITIONS OF CONTRACT 7.1

General Provisions

1. Definitions

1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in Kenya.
- b) "Consultant" means a legally established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
- c) "Contract" means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- d) "Procuring Entity" means the Procuring Entity that signs the Contract for the Services with the selected Consultant.
- e) "Day" means a working day unless indicated otherwise.
- f) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- g) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- h) "Foreign Currency" means any currency other than the currency of Kenya.
- i) "GCC" mean these General Conditions of Contract.
- j) "Government" means the government of Kenya.
- k) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- l) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge, and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was considered in the technical evaluation of the Consultant's proposal.
- m) "Local Currency" means the Kenya Shillings, the currency of Kenya.
- n) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part here of under the Contract.
- o) "Party" means the Procuring Entity or the Consultant, as the case may be, and "Parties" means both.
- p) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.

- q) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- r) "Sub-consultants" means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
- s) "Third Party" means any person or entity other than the Government, the Procuring Entity, the Consultant, or a Sub-consultant.
- t) "SECAP" means Social Environmental and Climate Assessment Procedures (SECAP)

2. **Interpretations**

In interpreting this contract, unless otherwise indicated:

- a) "Confirmation" means confirmation in writing.
- b) "In writing" means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt.
- c) Except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular.
- d) The feminine means the masculine and vice versa; and
- e) The headings are for reference only and shall not limit, alter, or affect the meaning of this contract

3. **Relationship between the Parties**

3.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

4. **Law Governing Contract**

4.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Laws of Kenya.

5. **Language**

5.1 This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

6. **Headings**

6.1 The headings shall not limit, alter, or affect the meaning of this Contract.

b. **Communications**

6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the English Language. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

6.2 A Party may change its address for notice here under by giving the other Party any communication of such change to the address specified in the SCC.

7 Location

7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

8 Authority of Member in Charge

8.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

9 Authorized Representatives

9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

10 Corrupt and Fraudulent Practices

10.1 The government requires compliance with its policy regarding corrupt and fraudulent/prohibited practices as set forth in its laws and policies.

10.2 Commissions and Fees-The Procuring Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agent or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity, or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract by the Procuring Entity and/or sanctions.

B. Commencement, Completion, Modification and Termination of Contract

11 Effectiveness of Contract

11.1 This Contract shall come into force and effect on the date (the "Effective Date") of the Procuring Entity's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effective conditions, if any, listed in the SCC have been met.

12 Termination of Contract for Failure to Become Effective

12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty-two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect there to.

13 Commencement of Services

13.1 The Consultant shall confirm availability of Key Experts and begins carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

14 Expiration of Contract

14.1 Unless terminated earlier pursuant to Clause GCC19 hereof, this Contract shall expire at

the end of such time after the Effective Date as specified in the SCC.

14 Entire Agreement

- 14.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

15 Modifications or Variations

- 15.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

16 Force Majeure

a. **Definition**

- 16.1 For the purposes of this Contract, "Force Majeure" means event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

- 16.2 Force Majeure shall not include (i) any event which has been caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations hereunder.

- 16.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

b. **No Breach of Contract**

- 16.4 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

c. **Measures to be taken**

- 16.5 A party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

- 16.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

- a) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action because of Force Majeure.

- b) During the period of their inability to perform the Services because of an event of Force Majeure, the Consultant, upon instructions by the Procuring Entity, shall either:
 - c) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Procuring Entity, in reactivating the Services; or
 - d) Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed or additional costs reasonably and necessarily incurred.
- 17.7 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 44 & 45.

18 Suspension

- 18.1 The Procuring Entity may, by written notice of suspension to the Consultant, suspend all payments to the Consultant here under if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) Shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

19 Termination

- 19.1 This Contract may be terminated by either Party as per provisions set up below:

a. By the Procuring Entity

- 19.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- a) If the Consultant fails to remedy a failure in the performance of its obligations here under, as specified in a notice of suspension pursuant to Clause GCC 18.
 - b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary.
 - c) If the Consultant fails to comply with any final decision reached because of arbitration proceedings pursuant to Clause GCC 45.1.
 - d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
 - e) If the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
 - f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC13.
- 19.1.2 Furthermore, if the Procuring Entity determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

b. By the Consultant

- a) The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Procuring Entity, in case of the occurrence of any of the

events specified in paragraphs(a)through(d)of this Clause.

- b) If the Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC45.1withinforty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- c) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- d) If the Procuring Entity fails to comply with any final decision reached because of arbitration pursuant to Clause GCC45.1.
- e) If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

c. Cessation of Rights and Obligations

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC14, all rights and obligations of the Parties here under shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC22, (iii) the Consultant's obligation to permit in section, copying and auditing of their accounts and records set forth in Clause GCC25, and (iv) any right which a Party may have under the Applicable Law.

d. Cessation of Services

19.1.5. Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by Clauses GCC27or GCC28.

e. Payment up on Termination

19.1.6 Up on termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- a) Payment or Services satisfactorily performed prior to the effective date of termination; and
- b) In the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

C. Obligations of the Consultant

16. **General**

a. Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency, and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Procuring Entity, and shall always support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employandprovidesuchqualifiedandexperiencedExpertsandSub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Procuring Entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

b. Law Applicable to Services

20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.

20.5 Throughout the execution of the Contract, the Consultants Hall comply with the import

- of goods and services prohibitions in Kenya when
- a As a matter of law or of official regulations, Kenya prohibits commercial relations with that country; or

20.6. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

21 Conflict of Interests

21.1 The Consultant shall hold the Procuring Entity's interest paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

a. Consultant Not to Benefit from Commissions, Discounts, etc.

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 38 through 42) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations here under, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, work or services, the Consultant shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.

b. Consultant and Affiliates Not to Engage in Certain Activities

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

c. Prohibition of Conflicting Activities

21.1.4 The Consultant shall not engage and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

d. Strict Duty to Disclose Conflicting Activities

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

22 Confidentiality

22.1 Except with the prior written consent of the Procuring Entity, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated during, or because of, the Services.

23 Liability of the Consultant

- 23.1 Subject to additional provisions, if any, set for in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

24 Insurance to be taken out by the Consultant

- 24.1 The Consultant (i) shall take out and maintain and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC13.

25 Accounting, Inspection and Auditing

- 25.1 The Consultant shall keep and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.

26 Reporting Obligations

- 26.1 The Consultant shall submit to the Procuring Entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

27 Proprietary Rights of the Procuring Entity in Reports and Records

- 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents, and software, supporting records or material compiled or prepared by the Consultant for the Procuring Entity in the course of the Services shall be confidential and become and remain the absolute property of the Procuring Entity. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Procuring Entity.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements, and the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

28 Equipment, Vehicles and Materials

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Procuring Entity or purchased by the Consultant wholly or partly with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles, and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure them at the expense of the Procuring Entity in an amount equal to their full replacement value.
- 28.2 Any equipment or materials brought by the Consultant or its Experts into Kenya for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

D. Consultant's Experts and Sub-consultants

29 Description of Key Experts

- 29.1 The title, agreed job description, minimum qualification, and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

30 Replacement of Key Experts

- 30.1 Except as the Procuring Entity may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forth with provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31 Removal of Experts or Sub-consultants

- 31.1 If the Procuring Entity finds that any of the Experts or Sub-Consultant has committed serious misconductor has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert of Sub consultant have engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practice while performing the Services, the Consultant shall, at the Procuring Entity's written request, provide a replacement.
- 31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Procuring Entity to be incompetent or incapable in discharging assigned duties, the Procuring Entity, specifying the grounds, therefore, may request the Consultant to provide a replacement.
- 31.3 Any replacement of the removed Experts or Sub consultants shall possess better qualifications and experience and shall be acceptable to the Procuring Entity.
- 31.4 The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

E. Obligations of the Procuring Entity

31 Assistance and Exemptions

- 32.1 Unless otherwise specified in the SCC, the Procuring Entity shall use its best efforts to:
- a Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
 - b Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the Services under the Contract.
 - c Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Expert and their eligible dependents.
 - d Issue to officials, agents, and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
 - e Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Kenya according to the applicable law in Kenya
 - f Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Kenya, of bringing into Kenya reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
 - g Provide to the Consultant any such other assistance as may be specified in the SCC.

33 Access to Project Site

- 33.1 The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Procuring Entity will be responsible for any damage to the project site, or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

34 Change in the Applicable Law Related to Taxes and Duties

- 34.1 If, after the date of this Contract, there is any change in the applicable law in Kenya with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 39.1

35 Services, Facilities and Property of the Procuring Entity

- 35.1 The Procuring Entity shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities, and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.

36 Counterpart Personnel

- 36.1 The Procuring Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Procuring Entity

with the Consultant's advice, if specified in Appendix A.

36.2 Professional and support counterpart personnel, excluding Procuring Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work as signed to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

37 Payment Obligation

37.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make such payments to the Consultant for the deliverables specified in Appendix A and in such manner as is provided by GCCF below.

F. Payments to the Consultant

38 Contract Price

38.1 The Contract price is fixed and is set forth in the SCC. The Contract price breakdown is provided in Appendix C.

38.2 Any change to the Contract price specified in Clause 38.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in Appendix A.

39 Taxes and Duties

39.1 The Consultant, Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC. Currency of Payment.

39.2 Any payment under this Contract shall be made in the currency (is) of the Contract.

40 Mode of Billing and Payment

40.1 The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.

40.2 The payments under this Contract shall be made in lump-sum installments against deliverables specified in Appendix A. The payments will be made according to the payment schedule stated in the SCC.

40.2.1 *Advance payment:* Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Procuring Entity in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix D, or in such other form as the Procuring Entity shall have approved in writing. The advance payments will be set off by the Procuring Entity in equal portions against the lump-sum installments specified in the SCC until said advance payments have been fully set off.

40.2.2 *The Lump-Sum Installment Payments.* The Procuring Entity shall pay the Consultant within sixty (60) days after the receipt by the Procuring Entity of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Procuring Entity does not approve the submitted deliverable(s) as satisfactory in which case the Procuring Entity shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and there after the fore going process shall be repeated.

40.2.3 *The Final Payment:* The final payment under this Clause shall be made only after the final report has been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall then be deemed completed and finally accepted by the Procuring Entity. The last lump-sum installment shall be deemed approved for payment by the Procuring Entity within ninety (90) calendar days after receipt of the final report by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and there after the foregoing process shall be repeated.

40.2.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

40.2.5 With the exception of the final payment under 40.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations here under.

41 Interest on Delayed Payments

41.1 If the Procuring Entity had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

G. Fairness and Good Faith

42 Good Faith

42.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

H. Settlement of Disputes

43 Amicable Settlement

43.1.2 The Parties shall seek to resolve any dispute amicably by mutual consultation.

43.1.3 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 45.1 shall apply.

44 Dispute Resolution

44.1.2 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the SCC.

8) SECTION 8: SPECIAL CONDITIONS OF CONTRACT

Number of Clause	GC	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
------------------	----	--

1.1(a) The Contract shall be construed in accordance with the law of Kenya

4.1 The language is: English

6.1 and The addresses are

6.2

Procuring Entity: -----
Attention:
Email:

Consultant: The details of the successful bidder shall be indicated herein

Attention: _____

Facsimile: _____

E-mail: _____

8.1 *[If the Consultant consists only of one entity: "N/A";*

If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]

The Lead Member on behalf of the JV is _____ *[insert name of the member]*

9.1 The Authorized Representatives are:

For the Procuring Entity: Property Officer

For the Consultant: The details of the successful bidder shall be indicated herein

11.1 The effectiveness conditions are the following:
["N/A"]

12.1 Termination of Contract for Failure to Become Effective:

The time period shall be **Three Months**

13.1 Commencement of Services:

The number of days shall be **Ten**

Confirmation of Key Experts' availability to start the Assignment shall be submitted to the Procuring Entity in writing as a written statement signed by each Key Expert.

The resulting contract will be implemented in a manner consistent with SECAP guidelines

14.1 Expiration of Contract:

	The time shall be (<i>Three months</i>).

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
21.1.3.	The Procuring Entity reserves the right to determine on a case-by-case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3
23.1	<p>Yes</p> <p>No additional provisions.</p>
24.1	The insurance coverage against the risks shall be as follows:
	<p>(a) Professional liability insurance, with a minimum coverage of KES 500,000,000.00</p> <p>(b) employer's liability and workers' compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the Applicable Law in Kenya, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(c) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.</p>
27.1	The additional rights to the use of the documents are as indicated in 27.1
27.2	[The Consultant shall not use these <i>documents, reports, and software</i> for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.]
32.1 (a) through (f)	[Not Applicable.]
32.1(g)	[Not Applicable for this Clause SCC 32.1(g)]
38.1	The Contract price is: _____ [inclusive of local taxes]
40.2	<p>The payment schedule:</p> <p>a) Payment upon successful completion of the exercise</p> <p>[Total sum of all installments shall not exceed the Contract price set up in SCC38.1. Every Payment shall be subject to (i) submission to the Procuring Entity of the</p>

umber of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<i>prerequisite Report and/or payment request documents, and (ii) approval and</i>
	<i>acceptance of the said reports and documents by the Procuring Entity]</i>
40.2.1	<i>[There shall be no advance payment to this contract]</i>
40.2.4	The accounts are:
41.1	for foreign currency: <i>[The successful firm shall be required to provide these details]</i> for local currency: <i>[successful firm shall be required to provide these details]</i>
41.1	The interest rate is: <i>[0.02]</i>
44.1	Disputes shall be settled by arbitration in accordance with the following provisions:
	<p>1. Selection of Arbitrators. Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions:</p> <p>(a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>[name an appropriate international professional body, e.g., the Federation International des Ingenious-Conseil (FIDIC) of Lausanne, Switzerland]</i> for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>[insert the name of the same professional body as above]</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.</p> <p>(b) Where the Parties do not agree that the dispute concerns a technical matter, the Procuring Entity and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties fail in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>[name an appropriate international appointing authority, e.g., the Secretary General of the Permanent Court of Arbitration, The Hague; the Secretary General of the International Centre for Settlement of Investment Disputes, Washington, D.C.; the International Chamber of Commerce, Paris; etc.]</i>.</p> <p>(c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the <i>[name the same appointing authority as in said paragraph (b)]</i> to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>2. Rules of Procedure. Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract.</p> <p>3. Substitute Arbitrators. If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. <u>Nationality and Qualifications of Arbitrators.</u> The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country <i>[If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties]</i> or of the Government's country. For the purposes of this Clause, "home country" means any of:</p> <p>(a) the country of incorporation of the Consultant <i>[If the Consultant consists of more than one entity, add: or of any of their members or Parties];</i> or</p> <p>(b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or</p> <p>(c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or</p> <p>(d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.</p>
	<p>5. <u>Miscellaneous.</u> In any arbitration proceeding hereunder:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in <i>[select a country which is neither the Procuring Entity's country nor the Consultant's country];</i></p> <p>(b) the <i>[type of language]</i> language shall be the official language for all purposes; and</p> <p>(c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p>

9) SECTION 9. NOTIFICATION FORMS

9.1 NOTIFICATION OF INTENTION TO AWARD

Procuring Entity: _____ *[insert the*
name of the Entity] Contract title: _____ *[insert the*
name of the contract] RFP No: _____ *[insert RF*
Preference number]

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) Request a debriefing in relation to the evaluation of your Proposal, and/or
- b) Submit a Procurement-related Complaint in relation to the decision to award the contract. The successful Consultant

Name:	<i>[insert name of successful Consultant]</i>
Address:	<i>[insert address of the successful Consultant]</i>
Contract price:	<i>[insert contract price of the successful Consultant]</i>

- c) **How to request a debriefing** *[This applies only if your proposal was unsuccessful as stated under point (3) above].*

DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time). You may request a debriefing in relation to the results of the evaluation of your Proposal. If you decide to request a debriefing your written request must be made within five (5) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Consultant, contact details; and address the request for debriefing as follows:
 Attention: *[insert full name of person, if applicable]*
 Title/position: *[insert title/position]*
 Agency: *[insert name of Procuring Entity]*
 Email address: *[insert email address]*
 Fax number: *[insert fax number] delete if not used*

If your request for a debriefing is received within the 5 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fourteen (14) Business Days from the date of publication of the Contract Award Notice.

(iv) How to Make a Complaint

DEADLINE: The deadline for submitting a Procurement-related Complaint challenging the decision to award the contract expires on midnight, *[insert date]* (local time).

Provide the contract name, reference number, name of the Consultant, contact details; and address the Procurement-related Complaint as follows: Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Procuring Entity]*

Email address: *[insert email address]*

Fax number: *[insert fax number] delete if not used*

[At this point in the procurement process] [Upon receipt of this notification] you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends. In summary, there are four essential requirements:

You must be an 'interested party'. In this case, that means a consultant who has submitted a Proposal in this selection process and is the recipient of a Notification of Intention to Award. The complaint can only challenge the decision to award the contract. You must submit the complaint within the deadline stated above.

You must include, in your complaint, all the information required by the Procuring Entity.

(v) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts **14** Business Days as specified in the Data Sheet after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended. This may happen where we are unable to provide a debriefing within the five (5) Business Day deadline. If this happens, we will notify you of the extension.

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of _____ *[insert the name of the*

Procuring Entity]:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

9.2 REQUEST FOR REVIEW

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO..... OF.....20.....

BETWEEN

..... **APPLICANT**

AND

..... **RESPONDENT (Procuring Entity)**

Request for review of the decision of the..... (Name of the Procuring Entity

of

.....dated the...day of20.....in the matter of Tender No.....of
.....20..... for(Tender description).

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address:
Physical

address.....P. O. Box No..... Tel. No.....Email, hereby request the
Public Procurement Administrative Review Board to review the whole/part of the above-mentioned
decision on the following grounds, namely:

- 1.
- 2.

By this memorandum, the Applicant requests the Board for an order/order that:

- 1.
- 2.

SIGNED (Applicant) Dated on.....day of/...20.....

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board
on.....day of20.....

SIGNED

Board Secretary

9.3 LETTER OF AWARD

To: _____ [name and address of the winning Consultant]

Subject: *Notification of Award Contract No.....*

This is to notify you that your Proposal dated _____ for consulting services for _____ as negotiated with you on _____ for the contract amount of

_____ [Insert amount in numbers and words and name of currency] is here by accepted by -----

You are requested to:(i) sign and return the draft negotiated Contract attached here with within eight (8) Business Days from the date of receipt of this notification; and (ii) furnish the additional information on beneficial ownership in accordance with the Data Sheet of ITC 32.1 within eight (8) days using the Beneficial Ownership Disclosure Form, included in Section 7 of the Request of Proposals.

Authorized Signature: _____ Name and Title of Signatory: _____

-----: _____

Attachment: Draft Negotiated Contract

1. BENEFICIAL OWNERSHIP DISCLOSURE FORM

INSTRUCTIONS TO CONSULTANTS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful Consultant. In case of joint venture, the Consultant must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Consultant is any natural person who ultimately owns or controls the Consultant by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or in directly holding 25% or more of the voting rights.*
- *Directly or indirectly have the right to appoint a majority of the board of directors or equivalent governing body of the Consultant.*

Request for Proposal Reference No.:

_____ [insert identification no] Name of the
 Assignment: _____ [insert name of the
 assignment] to: _____ [insert complete name of Procuring Entity]

In response to your notification of award dated _____ [insert date] of notification of award] to furnish additional information on beneficial ownership: [select one option as applicable and delete the options that are not applicable]

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Consultant (Yes / No)
[include full name (last, middle, first), nationality, country of residence]			

OR

- ii) *We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly have the right to appoint a majority of the board of directors or equivalent governing body of the Consultant.*

OR

iii) We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Consultant shall provide explanation on why it is unable to identify any Beneficial Owner] Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Consultant]"

Name of the Consultant:*[insert complete name of the Consultant] _____

Name of the person duly authorized to sign the Proposal on behalf of the Consultant: ** [insert complete name of person duly authorized to sign the Proposal]

Title of the person signing the Proposal: [insert complete title of the person signing the Proposal]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date signed [insert date of signing] day of..... [Insert month], [insert year]

In the case of the Proposal submitted by a Joint Venture specify the name of the Joint Venture as Consultant. In the event that the Consultant is a Joint venture, each reference to "Consultant" in the Beneficial Ownership Disclosure Form (including this Introduction there to) shall be read to refer to the joint venture member.

**Person signing the Proposal shall have the power of attorney given by the Consultant. The power of attorney shall be attached with the Proposal Schedules.