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**PROVISION OF CONSULTANCY SERVICES FOR
CONSTRUCTION OF PHASE II OF OFFICE BLOCK
AND ASSOCIATED FACILITIES (CONSORTIUM)**

TENDER NO: CAN/R.F.P/09/2018/2019

CLOSING DATE: 15TH JANUARY 2019 AT 11.00 A.M.

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SECTION I: - REQUEST FOR PROPOSAL

- 1.1 The County Assembly of Nakuru invites sealed proposals from eligible candidates for Provision of consultancy services for construction of phase II of office block and associated facilities(Consortium)
- 1.2 Interested eligible candidates may obtain further information from and inspect the request for proposal documents at County Assembly of Nakuru, P.O Box 907-20100 Nakuru in the procurement office during normal office working hours.
- 1.3 A complete set of tender documents may be downloaded by interested candidates in the Assembly's website: www.assembly.nakuru.go.ke free of charge.
- 1.4 Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for one twenty(120) days from the closing date of the tender.
- 1.5 Completed request for proposal documents are to be enclosed in plain sealed envelopes, marked with the RFP number and name be deposited in the Tender Box at County Assembly of Nakuru reception or be addressed to; **The Clerk, County Assembly of Nakuru, P.O Box 907-20100 Nakuru so as to be received on or before 15th January 2019 at 11.00 a.m.**
- 1.6 Technical proposals will be opened immediately thereafter in the presence of the candidates representatives who choose to attend at the Assembly's committee room.

SECTION II:- INFORMATION TO CONSULTANTS (ITC)

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SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

2.1.1 The Client named the Appendix to “ITC” will select a firm among those invited to submit a proposal, in accordance with the method of selection detailed in the appendix. The method of selection shall be as indicated by the procuring entity in the Appendix.

2.1.2 The consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Appendix “ITC” for consulting services required for the assignment named in the said Appendix. A Technical Proposal only may be submitted in assignments where the Client intends to apply standard conditions of engagement and scales of fees for professional services which are regulated as is the case with Building and Civil Engineering Consulting services. In such a case the highest ranked firm of the technical proposal shall be invited to negotiate a contract on the basis of scale fees. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.

2.1.3 The consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first hand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable. Consultants should contact the officials named in the Appendix “ITC” to arrange for any visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.

2.1.4 The Procuring entity will provide the inputs specified in the Appendix “ITC”, assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.

2.1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.

2.1.6 The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate.

2.1.7 The price to be charged for the tender document shall not exceed Kshs.5,000/=

2.1.8 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.2 Clarification and Amendment of RFP Documents

2.2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the Client’s address indicated in the Appendix “ITC”. The Client will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an

explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.

2.2.2 At any time before the submission of proposals, the Client may for any reason, whether at his own initiative or in response to a clarification requested by an invited firm, amend the RFP. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.

2.3 Preparation of Technical Proposal

2.3.1 The Consultants proposal shall be written in English language

2.3.2 In preparing the Technical Proposal, consultants are expected to examine the documents constituting this RFP in detail. Material deficiencies in providing the information requested may result in rejection of a proposal.

2.3.3 While preparing the Technical Proposal, consultants must give particular attention to the following:

- (i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub-consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified.
- (ii) For assignments on a staff-time basis, the estimated number of professional staff-time is given in the Appendix. The proposal shall however be based on the number of professional staff-time estimated by the firm.
- (iii) It is desirable that the majority of the key professional staff proposed be permanent employees of the firm or have an extended and stable working relationship with it.
- (iv) Proposed professional staff must as a minimum, have the experience indicated in Appendix, preferably working under conditions similar to those prevailing in Kenya.
- (v) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.

2.3.4 The Technical Proposal shall provide the following information using the attached Standard Forms;

- (i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate *inter alia*, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.

- (ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the Client.
- (iii) A description of the methodology and work plan for performing the assignment.
- (iv) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member and their timing.
- (v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last ten (10) years.
- (vi) Estimates of the total staff input (professional and support staff staff-time) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.
- (vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix "A" specifies training as a major component of the assignment.
- (viii) Any additional information requested in Appendix "A".

2.3.5 The Technical Proposal shall not include any financial information.

2.4 Preparation of Financial Proposal

- 2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.
- 2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix "A" specifies otherwise.
- 2.4.3 Consultants shall express the price of their services in Kenya Shillings.
- 2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.
- 2.4.5 The Proposal must remain valid for 60 days after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff

proposed for the assignment. The Client will make his best effort to complete negotiations within this period. If the Client wishes to extend the validity period of the proposals, the consultants shall agree to the extension.

2.5 Submission, Receipt, and Opening of Proposals

2.5.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorised to sign the proposals.

2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix "A". Each Technical Proposal and Financial Proposal shall be marked "**ORIGINAL**" or "**COPY**" as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.

2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "**TECHNICAL PROPOSAL**," and the original and all copies of the Financial Proposal in a sealed envelope clearly marked "**FINANCIAL PROPOSAL**" and warning: "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**". Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix "ITC" and be clearly marked, "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.**"

2.5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix "ITC". Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened.

2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the opening committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department up to the time for public opening of financial proposals.

2.6 Proposal Evaluation General

2.6.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix "ITC". Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant's proposal.

2.6.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

2.7 Evaluation of Technical Proposal

2.7.1 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows

	Points
(i) Specific experience of the consultant related to the assignment	(5-10)
(ii) Adequacy of the proposed work plan and methodology in responding to the terms of reference	(20-40)
(iii) Qualifications and competence of the key staff for the assignment	(30-40)
(iv) Suitability to the transfer of Technology Programme (Training)	<u>(0-10)</u>
Total Points	<u>100</u>

Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve the minimum technical score indicated in the Appendix "ITC".

2.8 Public Opening and Evaluation of Financial Proposal

2.8.1 After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP and Terms of Reference, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those consultants who choose to attend. The opening date shall not be sooner than seven (7) days after the notification date. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail.

2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical. Scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. Whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.

2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the

technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.

2.8.5 The formulae for determining the Financial Score (S_f) shall, unless an alternative formulae is indicated in the Appendix "ITC", be as follows:-

$S_f = 100 \times \frac{F_m}{F}$ where S_f is the financial score; F_m is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (S_t) and financial (S_f) scores using the weights (T =the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + P = 1$) indicated in the Appendix. The combined technical and financial score, S , is calculated as follows:- $S = S_t \times T\% + S_f \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.

2.8.6 The tender evaluation committee shall evaluate the tender within 30 days of from the date of opening the tender.

2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).

2.8.8 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price

2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.9 Negotiations

2.9.1 Negotiations will be held at the same address as "address to send information to the Client" indicated in the Appendix "ITC". The aim is to reach agreement on all points and sign a contract.

2.9.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the "Description of Services" and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.

2.9.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).

2.9.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the

objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.

2.9.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.

2.9.6 The procuring entity shall appoint a team for the purpose of the negotiations.

2.10 Award of Contract

2.10.1 The Contract will be awarded following negotiations. After negotiations are completed, the Client will promptly notify other consultants on the shortlist that they were unsuccessful and return the Financial Proposals of those consultants who did not pass the technical evaluation.

2.10.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix "A".

2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.10.4 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.10.6 To qualify for contract awards, the tenderer shall have the following:

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- (d) Shall not be debarred from participating in public procurement.

2.11 Confidentiality

2.11.1 Information relating to evaluation of proposals and recommendations concerning awards shall not be disclosed to the consultants who submitted the proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract.

2.12 Corrupt or fraudulent practices

- 2.12.1 The procuring entity requires that the consultants observe the highest standards of ethics during the selection and award of the consultancy contract and also during the performance of the assignment. The tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.12.2 The procuring entity will reject a proposal for award if it determines that the consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.12.3 Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

Appendix to Information to Consultants

The following information for procurement of consultancy services and selection of consultants shall complement or amend the provisions of the information to consultants, wherever there is a conflict between the provisions of the information and to consultants and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the information to consultants.

Clause Reference

2.1 **The name of the Client is:** County Assembly of Nakuru

2.1.1 **The method of selection is:** Quality and cost based selection method(QCBS)

2.1.2 Technical and Financial Proposals are requested: Yes. The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked “**TECHNICAL PROPOSAL,**” and the original and all copies of the Financial Proposal in a sealed envelope clearly marked “**FINANCIAL PROPOSAL**” and warning: “**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**”. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and the tender description and be clearly marked, “**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.**”

2.1.3 A pre-proposal conference will be held: N/A. however consultants who are interested in visiting the site, may do so during working hours (8.00a.m-12.00p.m and 2.00p.m-5.00p.m)

The name(s), address(es) and telephone numbers of the Client’s official(s) are: County Assembly of Nakuru, P.O Box 907-20100 Nakuru.

2.2.3 2.1.4 The Client will provide the following inputs: assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports where necessary

2.5.2 Consultants must submit an original and a copy of each proposal.

2.5.3 The proposal submission address is: County Assembly of Nakuru, P.O Box 907-20100 Nakuru. Information on the outer envelope should also include: The description of the proposal and the RFP number

2.5.4 Proposals must be submitted no later than the following date and time: **15th January 2019 at 11.00 a.m.**

2.6.1 The address to send information to the Client is; County Assembly of Nakuru, P.O Box 907-20100

2.6.3 The minimum technical score required to pass *is 90%*

2.7.1 The criteria for technical proposal evaluation shall be as follows:

EVALUATION CRITERIA.

The proposals will be evaluated in three stages as indicated below:

Stage 1: Mandatory requirements (to be evaluated on a 'Yes or No' basis)

No	Requirement	Yes/No
(i)	Certificate of Registration and /or Incorporation.	
(ii)	Valid Tax Compliance Certificate from Kenya Revenue Authority (KRA)	
(iii)	Tender security/ Bid bond of Kshs. 150,000. valid for an additional thirty (30) days after the expiry of the tender validity period	
(iv)	Properly filled, signed and stamped mandatory Confidential Business Questionnaire.	
(v)	Presentation of a well bound, serialized and properly paginated tender document including the attachments (serialization to be done numerically i.e 1, 2, 3.....)	
(vi)	Provide a written declaration of any pending litigation issues either for or against the company	
(vii)	Profile of firms/consortium to include the company background, registration and practicing license from the relevant professional bodies.	
(viii)	Copy of CR12	

N/B: all the above must be met to qualify for the 2nd stage (technical evaluation)

Stage 2: Technical Requirements

The evaluation committee shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria as follows:

No.	Description	Total Points
	<p>Specific experience of the Consultant related to the assignment (experience on design and supervision of construction of office block and associated facilities) 3 projects of similar magnitude</p> <ul style="list-style-type: none"> • Above Kshs. 500 Million - (30 marks) • Kshs 200-499 million to 1 billion - (15 marks) • Below Kshs 200 million - (10 marks) <p>Attach evidence of signed contracts, LSOs and/or award letters from clients.</p>	30
	<p>Firm's references: Experience in services of similar nature and size for each of the last ten years.</p> <ul style="list-style-type: none"> • Provide recommendation letters • 15 recommendation letters- 15 marks • 10-14 recommendation letters=10 marks • Below 10 recommendation letters= 5 marks 	15
	<p>Qualifications and competence of the key staff for the assignment with current practicing licence with relevant registration board- Attach CVs</p> <ol style="list-style-type: none"> 1. Lead Architect-10 marks <ul style="list-style-type: none"> • 15 years and above - 10 marks • Below 15 years - 0 marks 2. Lead Quantity Surveyor- 10 marks <ul style="list-style-type: none"> • 10 years and above - 10 marks • Below 10 years - 0 mark 3. Lead Civil/ Structural Engineer- 5 marks <ul style="list-style-type: none"> • 10 years and above - 5 marks 	45

	<ul style="list-style-type: none"> • Below 10 years - 0 mark <p>4. Lead Electrical Engineer- 5 marks</p> <ul style="list-style-type: none"> • 10 years and above - 5 marks • Below 10 years - 0 mark <p>5. Lead Mechanical Engineer- 6 marks</p> <ul style="list-style-type: none"> • 10 years and above - 6 marks • Below 10 years - 0 mark <p>6. Lead Landscape Architect- 3 marks</p> <ul style="list-style-type: none"> • 5 years and above - 3 marks • Below 5 years - 0 mark <p>7. Lead Land Surveyor -3 marks</p> <ul style="list-style-type: none"> • 5 years and above -3 marks • Below 5 years -0 mark <p>8. Lead Environmental Expert- 3 marks</p> <ul style="list-style-type: none"> • 5 years and above - 3 marks • Below 5 years -0 mark <p>Note: Provide current practicing licence with relevant registration board.</p>	
	<p>Financial capability</p> <p>Reports on the financial standing of the consultant, such as profit and loss statements and auditor’s reports for the year 2016 and 2017 or 2018.</p> <p>Minimum of 2 years Audited accounts by a certified audit firm= 10 marks</p> <p>Lack of 2 years audited accounts= 0 mark</p>	10
	Total Points	100

The minimum qualifying mark for Technical proposal shall be 90%. Candidates that will have attained those points will have their financial proposals opened and evaluated.

Stage 3: Financial proposal evaluation criteria

After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered non-responsive to the evaluation criteria, indicating that their Financial Proposals will be returned after completing the selection process. The Client shall simultaneously notify the consultants who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals and stating that the opening ceremony is open to those consultants who choose to attend. The opening date shall not be sooner than seven (7) days after the notification date. The notification may be sent by registered letter, cable, telex, facsimile or electronic mail.

The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical Scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

The evaluation committee will determine whether the financial proposals are complete (i.e. Whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.

The formulae for determining the Financial Score (Sf) shall, unless an alternative formulae is indicated in the Appendix "ITC", be as follows:-

$S_f = 100 \times \frac{F_m}{F}$ where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T=the weight given to the Technical Proposal= 0.9; P = the weight given to the Financial Proposal=0.1; T + p = 1) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows:- $S = S_t \times T \% + S_f \times P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.

Alternative formulae for determining the financial scores is the following:

The weights given to the Technical and Financial Proposals are:

T= _____ (0.90)

P= _____ (0.10)

2.9.2 The assignment is expected to commence from the date of contract signing

SECTION III: - TECHNICAL PROPOSAL

Notes on the preparation of the Technical Proposals

- 3.1 In preparing the technical proposals the consultant is expected to examine all terms and information included in the RFP. Failure to provide all requested information shall be at the consultants own risk and may result in rejection of the consultant's proposal.
- 3.2 The technical proposal shall provide all required information and any necessary additional information and shall be prepared using the standard forms provided in this Section.
- 3.3 The Technical proposal shall not include any financial information unless it is allowed in the Appendix to information to the consultants or the Special Conditions of contract.

SECTION III: - TECHNICAL PROPOSAL

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6. Format of curriculum vitae (CV) for proposed Professional staff	
7. Time schedule for professional personnel	
8. Activity (work schedule)	

1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ *Date*]

To: _____ [*Name and address of Client*]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for _____
_____ [*Title of consulting services*] in accordance with your Request
for Proposal dated _____ [*Date*] and our Proposal. We are hereby submitting
our Proposal, which includes this Technical Proposal, [and a Financial Proposal sealed under a
separate envelope-*where applicable*].

We understand you are not bound to accept any Proposal that you receive.

We remain,

Yours sincerely,

_____ [*Authorized Signature*]:

_____ [*Name and Title of Signatory*]

:

_____ [*Name of Firm*]

:

_____ [*Address:*]

2. FIRM'S REFERENCES

Relevant Services Carried Out in the Last Five Years That Best Illustrate Qualifications

Using the format below, provide information on each assignment for which your firm either individually, as a corporate entity or in association, was legally contracted.

Assignment Name:	Country
Location within Country:	Professional Staff provided by Your Firm/Entity(profiles):
Name of Client:	Clients contact person for the assignment.
Address:	No of Staff-Months; Duration of Assignment:
Start Date (Month/Year):	Completion Date (Month/Year):
Name of Associated Consultants. If any:	Approx. Value of Services (Kshs)
	No of Months of Professional Staff provided by Associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:	
Narrative Description of project:	
Description of Actual Services Provided by Your Staff:	

Firm's Name: _____

Name and title of signatory; _____

(May be amended as necessary)

3. COMMENTS AND SUGGESTIONS OF CONSULTANTS ON THE TERMS OF REFERENCE AND ON DATA, SERVICES AND FACILITIES TO BE PROVIDED BY THE CLIENT.

On the Terms of Reference:

- 1.
- 2.
- 3.
- 4.
- 5.

On the data, services and facilities to be provided by the Client:

- 1.
- 2.
- 3.
- 4.
- 5.

14. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT

5. TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff

Name	Position	Task

2. Support Staff

Name	Position	Task

6. FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

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 these data correctly describe me, my qualifications, and my experience.

_____ Date: _____
[Signature of staff member]

_____ *Date;*
[Signature of authorised representative of the firm]

Full name of staff member: _____

Full name of authorized representative: _____

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

Name	Position	Reports Activities	Due/	Months (in the Form of a Bar Chart)												Number of months	
				1	2	3	4	5	6	7	8	9	10	11	12		

Reports Due: _____

Activities Duration: _____

Signature: _____
(Authorized representative)

Full Name: _____

Title: _____

Address: _____

8. ACTIVITY (WORK) SCHEDULE

(a). Field Investigation and Study Items

[1st, 2nd, etc. are months from the start of assignment)

	1 st	2 nd	3 rd	4 th	5 th	6 th	7 th	8 th	9 th	10 th	11 th	12 th	
Activity (Work)													

(b). Completion and Submission of Reports

Reports	Date
1. Inception Report	
4. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	

SECTION IV: - FINANCIAL PROPOSAL

Notes on preparation of Financial Proposal

- 4.1 The Financial proposal prepared by the consultant should list the costs associated with the assignment. These costs normally cover remuneration for staff, subsistence, transportation, services and equipment, printing of documents, surveys etc as may be applicable. The costs should be broken down to be clearly understood by the procuring entity.
- 4.2 The financial proposal shall be in Kenya Shillings or any other currency allowed in the request for proposal and shall take into account the tax liability and cost of insurances specified in the request for proposal.
- 4.3 The financial proposal should be prepared using the Standard forms provided in this part

SECTION IV - FINANCIAL PROPOSAL STANDARD FORMS

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2. Summary of costs	
3. Breakdown of price/per activity	
4. Breakdown of remuneration per activity	
5. Reimbursables per activity	
6. Miscellaneous expenses	

1. FINANCIAL PROPOSAL SUBMISSION FORM

_____ [Date]

To: _____

[Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consulting services for (_____) *[Title of consulting services]* in accordance with your Request for Proposal dated (_____) *[Date]* and our Proposal. Our attached Financial Proposal is for the sum of (_____) *[Amount in words and figures]* inclusive of the taxes.

We remain,

Yours sincerely,

_____ *[Authorized Signature]*
:
_____ *[Name and Title of Signatory]:*
_____ *[Name of Firm]*
_____ *[Address]*

2. SUMMARY OF COSTS

Costs	Currency(ies)	Amount(s)
Subtotal		
Taxes		
Total Amount of Financial Proposal		<hr/>

3. BREAKDOWN OF PRICE PER ACTIVITY

Activity NO.: _____	Description: _____
Price Component	Amount(s)
Remuneration Reimbursables Miscellaneous Expenses Subtotal	 _____

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No. _____		Name: _____		
Names	Position	Input (Staff months, days or hours as appropriate.)	Remuneration Rate	Amount
Regular staff				
(i)				
(ii)				
Consultants				
Grand Total				_____

5. REIMBURSABLES PER ACTIVITY

Activity No: _____

Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Air travel	Trip			
2	Road travel	Kms			
3.	Rail travel	Kms			
4.	Subsistence Allowance	Day			_____
	Grand Total				

6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs _____ (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: computers etc.				
4.	Software				
	Grand Total				_____

SECTION V: - TERMS OF REFERENCE

I. BACKGROUND

The County Assembly of Nakuru is desirous of construction phase II of office block and associated facilities as an important tool that is geared towards achieving the responsibilities of legislation, representation and oversight as per the Constitution of Kenya 2010

II. OBJECTIVES OF THE ASSIGNMENT

The objective of the consultancy is to facilitate and develop the designs, specifications and Bills of Quantities for the execution of the proposed Development of a proposed phase II of office block and supervise the construction works from inception stage to the issuance of the certificate of making good defects.

The Consortium will assist the Client in achieving the product within the constraints of time, budget and cost.

The execution of the consultancy shall be in accordance with the Ministry of Public Works Conditions of Engagement and Scale of Fees for Professional Services for Building Works 1987 Edition with any amendments thereto.

III. SCOPE OF THE PROPOSED DEVELOPMENT

- i. Modern debating chamber with a seating capacity of 100 members in a horseshoe arrangement. The chamber should be fully equipped with Hansard and electrical voting system as well as live broadcasting and recording. It is also expected to be properly ventilated / air conditioned, sound proof and well lit
- ii. Public gallery to accommodate approximately 50 persons
- iii. Speakers gallery to accommodate approximately 15-20 persons
- iv. Speakers office to have an executive office, a boardroom, a gown room, visitors lounge and auxiliary room for 5 No. support staff.
- v. Office for Sergeant at arms.
- vi. Office for 4 No. members of speakers panel
- vii. Media Centre for approximately 10 people.
- viii. Cafeteria for approximately 100 Pax with associated facilities.
- ix. A basement parking

Consultant's primary task

The consultant's primary tasks will be in two phases:

Phase A:

- i. Undertake the designs of the works according to the clients brief ;
- ii. Review and assess the proposed site for the project and as appropriate and suggest

improvements in regard to adequacy, access, interrelationship etc;

- iii. Prepare project Architectural/Structural designs/Services/drawings, Bills of Quantities, and Tender documents; and EIA Report
- iv. Prepare supervision and reporting guidelines for all tasks by all different actors during project planning, implementation, handing over and future management of the facilities.
- v. Offer technical advice to the evaluation committee
- vi. Process and obtain approvals related to construction including but not limited to environmental audit, building plans and other statutory approvals. Co-ordinate carrying out of geotechnical survey if need be.

Phase B - Construction Supervision

Stage 1-Works supervision

- i. Review of the Contractor's work programmes and monitoring, on a day- to-day basis of the Contractor's adherence to these programmes.
- ii. Approval of the Contractor's proposed Quality Control Plan and materials sources.
- iii. Issuance of Site Instructions.
- iv. Prepare valuations, payment certificates and cash flow projections
- v. Verification of quality of works performed and materials used through regular inspections and management meetings.
- vi. Verification of measurements and issuance of interim payment certificates.
- vii. Preparation of variation orders consistent with the terms and conditions of the signed contract.
- viii. Compilation and submission of monthly and quarterly Progress Reports.
- ix. Performing the role of Architect Consultant and advising the Employer on challenges arising during the execution of the works.
- x. Assisting in relocation of services
- xi. Monitoring of sound use of resources and protection of the environment.
- xii. Requesting Coordination with third parties, e.g. public utilities, service providers.
- xiii. Analysis of any claims submitted by the contractor(s).
- xiv. Coordinate Handover of Installation manuals, kits, maintenance procedures, contacts of specialist, emergency telephone numbers, software etc
- xv. Training and capacity building personnel
- xvi. Any other necessary services.

Stage 2 - Services during Defect Liability Period

- i. Inspection of defect rectification works and maintenance.
- ii. Carrying out periodic inspection during the defect liability period.

- iii. Compilation of Final Completion Report, Final Accounts and As-built drawings.

Post contract stage (Construction stage)

- Monthly progress reports
- Site inspections reports
- Minutes of site meeting
- Periodic Financial Appraisals
- Periodic cash flow projections
- Interim valuations and payment certificates to Main Contractor, Subcontractors/ Suppliers.
- Practical Completion Certificates
- Testing and Commissioning reports
- Site handing over report
- Certificate of Making Good Defects
- Final Account
- As – built drawings
- Statutory approvals
- Operation and maintenance manuals
- Any warranties or guarantees from suppliers

IV. SCOPE OF CONSULTANCY SERVICES (CONSORTIUM)

The following are the Terms of Reference (T.O.R)

1. The Consortium will be expected to provide the following services:

(i) Architectural Services

- As provided for under Clause 301 – Schedule of duties for normal Architectural services contained in the First Edition (1987) of Conditions of Engagement and Scale of Fees for Professional Services for Building and Civil Engineering Works (Part I – Building Works) prepared by the Ministry of Works.
- Any additional services that may be required, authorized and approved by the Client.

(ii) Landscape Architectural Services

- Garden and Landscape Design as provided for under Clause 303.13 – Schedule of duties for additional and special services as contained in the First Edition (1987) of Conditions of Engagement and Scale of Fees for Professional Services for Building and Civil Engineering Works (Part I – Building Works) prepared by the Ministry of Works.
- Any additional services that may be required, authorized and approved by the Client.

(iii) Quantity Surveying Services

- As provided for under Clause 401 – Schedule of duties for normal Quantity Surveying services as contained in the First Edition (1987) of Conditions of Engagement and Scale of Fees for Professional Services for Building and Civil Engineering Works (Part I – Building Works) prepared by the Ministry of Works. All Bills of Quantities for the works shall be prepared by the Quantity Surveyor.
- Any additional services that may be required, authorized and approved by the Client.

(iv) Structural & Civil Engineering Services

- As provided for under Clause 601 – Schedule of duties for normal Structural Engineering Services, and Clause 701 - Schedule of duties for normal Civil Engineering Services related to Building Works) prepared by the Ministry of Works.
- Any additional services that may be required authorized and approved by the Client.

(v) Mechanical & Electrical Engineering Services

- As provided for under Clause 501 – Schedule of duties for normal Mechanical and Electrical Engineering Services as contained in the First Edition (1987) of Conditions of Engagement and Scale of Fees for Professional Services for Building and Civil Engineering Works (Part I – Building Works) prepared by the Ministry of Works.

(vi) Any additional services that may be required, authorized and approved by the Client.

V. TERMS OF PAYMENT

The Consultants remuneration shall be as per the Conditions of Engagement and Scales of Fees for Professional Services for Building and Civil Engineering Works, First Edition (1987) Part I- Building Works and amendments thereto prepared by the Ministry of Public Works.

Payment for Additional Services

For the purposes of determining the remuneration due for additional Services may be agreed under Clause 2.4, the amounts payable shall be determined as per the Conditions of Engagement and Scales of Fees for Professional Services for Building and Civil Engineering Works, First Edition (1987) Part I – Building Works and amendments thereto prepared by the Ministry of Public Works.

Payments will be made to the Consultants and according to the payment schedule sated in Conditions of Engagement and Scales of Fees for Professional Services for Building and Civil Engineering Works, First Edition (1987) Part I – Building Works and amendments thereto prepared by the Ministry of Public Works. All payments shall be made after the conditions for such payments have been met and the Consultant has submitted an invoice to the Client specifying the amount due.

SECTION VI: -STANDARD FORM OF CONTRACT

ANNEX I – LARGE ASSIGNMENTS (LUMP-SUM PAYMENTS)

ANNEX 1
REPUBLIC OF KENYA

STANDARD FORM OF CONTRACT

FOR

CONSULTING SERVICES

Large Assignments
(Lump- Sum payment)

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(ii)

Special Notes

1. The Lump-Sum price is arrived at on the basis of inputs – including rates – provided by the Consultant. The Client agrees to pay the Consultant according to a schedule of payments linked to the delivery of certain outputs, usually reports. Lump-sum contracts have the simplicity of administration, the Client having only to be satisfied with the outputs without monitoring the staff inputs and should be used for large Assignments in for example Design; Engineering; Supervision and Management Services; Master plans; Economic and Feasibility studies; and Surveys.
2. The Contract includes four parts: Form of Contract, the General Conditions of Contract, the Special Conditions of Contract and the Appendices. The Client using this standard contract should not alter the General Conditions. Any adjustment to meet any specific project features should be made only in the Special Conditions.

(iii)

CONTRACT FOR CONSULTANT'S SERVICES

Large Assignments (Lump-Sum Payments)

between

[name of the Client]

AND

[name of the Consultant]

Dated: _____ *[date]*

(iv)

I. FORM OF CONTRACT

Large Assignments (Lump-Sum Payments)

This Agreement (hereinafter called the "Contract") is made the _____ day of the month of _____ [month], [year], between _____, [name of client] of _____ [or whose registered office is situated at] _____ [location of office] (hereinafter called the "Client") of the one part AND

_____ [name of consultant] of [or whose registered office is situated at] _____ [location of office] (hereinafter called the "Consultant") of the other part.

WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- (b) the Consultant, having presented to the Client that he has the required professional skills and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the Parties hereto hereby agree as follows:

- 1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) The following Appendices: [**Note:** *If any of these Appendices are not used, they should be deleted from the list*]
 - Appendix A: Description of the Services
 - Appendix B: Reporting Requirements
 - Appendix C: Key Personnel and Sub consultants
 - Appendix D: Breakdown of Contract Price in Foreign Currency
 - Appendix E: Breakdown of Contract Price in Local Currency
 - Appendix F: Services and Facilities Provided by the Client

(v)

2. The mutual rights and obligations of the Client and the Consultants shall be as set forth in the Contract; in particular:
- (a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto 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 client]*

[full name of _____ *of Client's*
authorised representative

[title] _____

[signature] _____

[date] _____

For and on behalf of _____ *[name of consultant]*

[full name of Consultant's
authorized representative] _____

[title] _____

[signature] _____

[date] _____

II. GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions

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

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Contract Price” means the price to be paid for the performance of the Services in accordance with Clause 6 herebelow;
- (d) “Foreign Currency” means any currency other than the Kenya Shilling;
- (e) “GC” means these General Conditions of Contract;
- (f) “Government” means the Government of the Republic of Kenya;
- (g) “Local Currency” means the Kenya Shilling;
- (h) “Member”, in case the Consultant consists of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract;
- (i) “Party” means the Client or the Consultant, as the case may be and “Parties” means both of them;

(vii)

- (j) “Personnel” means persons hired by the Consultant or by any Subconsultant as employees and assigned to the performance of the Services or any part thereof;

- (k) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (l) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- (m) “Sub consultant” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

1.2 Law Governing the Contract This Contract, its meaning and interpretation and the relationship between the Parties shall be governed by the Laws of Kenya.

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

1.4 Notices Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SC.

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

1.6 Authorized Representatives Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

(viii)

1.7 Taxes and Duties The Consultant, Sub consultant[s] and their personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Laws of Kenya, the amount of which is deemed to have been included in the Contract Price.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of This Contract shall come into effect on the date the

Contract	Contract is signed by both Parties or such other later date as may be stated in the SC.
2.2 Commencement of Services	The Consultant shall begin carrying out the Services thirty (30) days after the date the Contract becomes effective or at such other date as may be specified in the SC.
2.3 Expiration of Contract	Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as is specified in the SC.
2.4 Modification	Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties.
2.5 Force Majeure	
2.5.1 Definition	For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
2.5.2 No Breach of Contract	The failure of a Party to fulfill any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
(ix)	
2.5.3 Extension Of Time	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 as a result of Force Majeure.
2.5.4 Payments	During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by him during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Client The Client may terminate this Contract by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in this Clause;

- (a) if the Consultant does not remedy a failure in the performance of his obligations under the Contract within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultant becomes insolvent or bankrupt;
- (c) if, as a 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) days; or
- (d) if the Consultant, in the judgement of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause;

“corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the selection process or in Contract execution.

(x)

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of Contract to the detriment of the Client, and includes collusive practice among consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

- (e) if the Client in his sole discretion decides to terminate this Contract.

2.6.2 By the Consultant The Consultant may terminate this Contract by not less

Consultant than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the following events;

- (a) if the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within sixty (60) days after receiving written notice from the Consultant that such payment is overdue; or
- (b) if, as a 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) days.

2.6.3 Payment upon Termination Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant:

- (a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;
- (b) except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable costs incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

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3. OBLIGATIONS OF THE CONSULTANT

3.1 General The Consultant shall perform the Services and carry out his obligations with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Client and shall at all times support and safeguard the Client's legitimate interests in any dealing with Sub consultants or third parties.

1.2 Conflict of Interests

3.2.1 Consultant Not to Benefit from Commissions, Discounts, (i) The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission,

Etc. discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consultant[s] and agents of either of them similarly shall not receive any such additional remuneration.

(ii) For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.

(iii) Where the Consultant as part of the Services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable

(xii)

procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.

3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and his affiliates, as well as any Subconsultant and any of his affiliates, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Consultant nor his subconsultant[s] nor their personnel shall engage, either directly or indirectly in any of the following activities:

(a) during the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or

(b) after the termination of this Contract, such other activities as may be specified in the SC.

- 3.3 Confidentiality** The Consultant, his subconsultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.
- 3.4 Insurance to be Taken Out by the Consultant** The Consultant (a) shall take out and maintain and shall cause any subconsultant[s] to take out and maintain, at his (or the subconsultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.
- (xiii)
- 3.5 Consultant's Actions Requiring Client's Prior Approval** The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions;
- (a) entering into a subcontract for the performance of any part of the Services,
 - (b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Subconsultants").
- 3.6 Reporting Obligations** The Consultants shall submit to the Client the reports and documents specified in Appendix A in the form, in the numbers, and within the periods set forth in the said Appendix.
- 3.7 Documents prepared by the Consultant to Be the Property of the Client** All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Client and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other Party.

4. CONSULTANT'S PERSONNEL

- 4.1 Description of Personnel** The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub consultants listed by title as well as by name in Appendix C are hereby approved by the Client.
- 4.2 Removal and/or Replacement Of Personnel** (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.

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- (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Client has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions The Client shall use his best efforts to ensure that he provides the Consultant such assistance and exemptions as may be necessary for due performance of this Contract.

5.2 Change in the Applicable Law If after the date of this Contract, there is any change in the Laws of Kenya with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Consultant, 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 and corresponding adjustments shall be made to the

amounts referred to in Clause 6.2 (a) or (b), as the case may be.

5.3 Services and Facilities

The Client shall make available to the Consultant the Services and Facilities listed under Appendix F.

6. PAYMENTS TO THE CONSULTANT

6.1 Lump-Sum Remuneration

The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, Subconsultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the

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Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

6.2 Contract Price

- (a) The price payable in foreign currency is set forth in the SC.
- (b) The price payable in local currency is set forth in the SC.

6.3 Payment for Additional Services

For the purposes of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.

6.4 Terms and Conditions of Payment

Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of a bank guarantee for the same amount and shall be valid for the period stated in the SC. Any other payment shall be made after the conditions listed in the SC for such payment have been met and the Consultant has submitted an invoice to the Client specifying the amount due.

6.5 Interest on Delayed Payment

Payment shall be made within thirty (30) days of receipt of invoice and the relevant documents specified in Clause 6.4. If the Client has delayed payments beyond thirty (30) days after the due date hereof, simple

interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending .

7. SETTLEMENT OF DISPUTES

7.1 Amicable Settlement The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

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7.2 Dispute Settlement Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be referred by either Party to the arbitration and final decision of a person to be agreed between the Parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the Chairman of the Chartered Institute of Arbitrators, Kenya Branch, on the request of the applying party.

III. SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of and Supplements to Clauses in the General Conditions of Contract
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1.1(i) The Member in Charge is _____ *[name of Member]*

1.4 The addresses are:

Client: _____
Attention: _____
Telephone: _____
Telex; _____
Facsimile: _____

Consultant: _____
Attention: _____
Telephone; _____
Telex: _____
Facsimile: _____

1.6 The Authorized Representatives are:

For the Client: _____

For the Consultant: _____

2.1 The date on which this Contract shall come into effect is(_____) *[date]*.

Note: *The date may be specified by reference to conditions of effectiveness of the Contract, such as receipt by Consultants of advance payment and by Client of bank guarantee*

2.2 The date for the commencement of Services is _____ *[date]*

2.3 The period shall be _____ *[length of time]*.

Note: *Fill in the period, eg, twenty-four (24) months or such other period as the Parties may agree in writing.*

3.4 The risks and coverage shall be:

- (i) Professional Liability _____
- (ii) Loss of or damage to equipment and property _____

6.2(a) The amount in foreign currency or currencies is _____ *[Insert amount]*.

6.2(b) The amount in local Currency is _____ *[Insert amount]*

6.4 Payments shall be made according to the following schedule:

***Note:** (a) This sample Clause should be specifically drafted for each Contract and the following installments are indicative only; (b) if the payment of foreign currency and of local currency does not follow the same schedule, add a separate schedule for payment in local currency; and (c) if applicable, detail further the nature of the report evidencing performance, as may be required, e.g., submission of study or specific phase of study, survey, drawings, draft bidding documents, etc., as listed in Appendix B, Reporting Requirements. In the example provided, the bank guarantee for the repayment is released when the payments have reached 50 percent of the lump-sum price, because it is assumed that at that point, the advance has been entirely set off against the performance of services.*

- Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same.
- Ten (10) percent of the lump-sum amount shall be paid upon submission of the inception report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the interim report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the draft final report.
- Twenty (20) percent of the lump-sum amount shall be paid upon approval of the final report.
- The bank guarantee shall be released when the total payments reach fifty (50) percent of the lump-sum amount.

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IV. Appendices

APPENDIX A – DESCRIPTION OF THE SERVICES

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Client, etc.

APPENDIX B – REPORTING REQUIREMENTS

List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

APPENDIX C– KEY PERSONNEL AND SUBCONSULTANTS

List under: C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of Personnel and staff-months for each.

 C-2 List of approved Sub consultants (if already available); same information with respect to their Personnel as in C-1.

APPENDIX D – BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY

List here the elements of cost used to arrive at the breakdown of the lump-sum price – foreign currency portion:

1. *Monthly rates for Personnel (Key Personnel and other Personnel).*
2. *Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional services.

APPENDIX E – BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

List here the elements of cost used to arrive at the breakdown of the lump-sum price – local currency portion.

1. *Monthly rates for Personnel (Key Personnel and other Personnel).*
2. *Reimbursable expenditures.*

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This appendix will exclusively be used for determining remuneration for additional services.

APPENDIX F – SERVICES AND FACILITIES PROVIDED BY THE CLIENT

FORM RB 1
REPUBLIC OF KENYA
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...

REQUEST FOR REVIEW

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

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

- 1.
 - 2.
- etc

SIGNED(Applicant)

Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on day of
.....20.....

SIGNED
Board Secretary