



REPUBLIC OF KENYA



**KENYA URBAN ROADS AUTHORITY**  
*Transforming Urban Mobility*

## REQUEST FOR PROPOSAL

FOR PROCUREMENT OF.

**CONSULTANCY SERVICES  
FOR  
PREPARATION OF NON MOTORISED TRANSPORT (NMT)  
MASTER PLAN, PRELIMINARY AND DETAILED ENGINEERING DESIGN  
FOR  
MOMBASA CITY**

**TENDER NO.: KURA/RMLF/HQ/399/2024-2025**

**JANUARY 2025**

**DIRECTOR (URBAN ROADS PLANNING &  
DESIGN)**

**KENYA URBAN ROADS AUTHORITY**

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## SECTION 1 (A) - REQUEST FOR PROPOSAL (RFP)

RFP Reference No.: KURA/RMLF/HQ/399/2024-2025

Name of Assignment: CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORISED TRANSPORT (NMT) MASTER PLAN, PRELIMINARY AND DETAILED ENGINEERING DESIGN FOR MOMBASA CITY

TO: .

1. KENYA URBAN ROADS AUTHORITY has set aside funds in its budget or has received financing from. THE GOVERNMENT OF KENYA- ROAD MAINTENANCE LEVY FUND (RMLF) towards the cost of the subject consulting services.
2. The Procuring Entity now invites proposals to provide the following consulting services (hereinafter called “the Services”): CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORIZED TRANSPORT (NMT) MASTERPLAN PRELIMINARY AND DETAILED ENGINEERING DESOGN FOR MOMBASA COUNTY  
More details on the Services are provided in Section 8 Terms of Reference.
3. This Request for Proposals (RFP) has been addressed to the following Consulting Firms:  
  
ALL ELIGIBLE CONSULTANT FIRMS
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. A firm will be selected under Quality and Cost Based Selection Method (QCBSM) and in a format as described in this RFP, in accordance with the Public Procurement and Asset Disposal Act 2015, a copy of which is found at the following website: [www.ppra.go.ke](http://www.ppra.go.ke). and [www.kura.go.ke](http://www.kura.go.ke)
7. The RFP includes the following documents:  
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: Time-Based
8. Please inform us by As indicated in the Tender Notice, in writing at the address below or by E-mail ;  
*supplychain@kura.go.ke*:
  - a) 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).
9. 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.
10. Provide bid security in the form of Bank guarantee of Kenya shillings Four Hundred Thousand Only (Ksh.400,000.00) in the format provided .

Yours sincerely,

ENG. SILAS M. KINOTI, MBS  
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## 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 its 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 reflect specific assignment conditions to supplement, but not to over-write, 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 any and 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) “Public Procurement Regulatory Authority (PPRA)” means the statutory authority of the Government of Kenya that is mandated with the role of regulating and monitoring compliance with the public procurement law and regulations.
- 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 Consultant 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 paramount, 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 has the ability to 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 for 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 tenderer 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](http://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 it's 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 ITC6.1 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. The list of debarred firms and individuals is available from the website of PPRA [www.ppra.go.ke](http://www.ppra.go.ke).
- 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 country;
  - ii) By an act of compliance with a decision of the United Nations Security Council taken under Chapter

VII of the Charter of the United Nations, Kenya prohibits any import of goods or services from that country or any payments to any country, person, or entity in that country.

- 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 ITC 12.7.
- 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 a 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 to be 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 a 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 as a result 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 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.

#### **16 Financial Proposal**

16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the Data Sheet. Irrespective of the consultant selection method, any Consultant that does not submit itemized and priced financial proposal, or merely refers the Procuring Entity to other legal instruments for the applicable minimum remuneration fees shall be considered non-responsive.

##### **a. Price Adjustment**

16.2 For assignments with a duration exceeding 12 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 initialed 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..... (The time and date for proposal opening date)”. 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 any one on behalf of the Consultant to influence improperly the Procuring Entity in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal and may be subject to the application of prevailing PPRA's debarment procedures.
- 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) The Consultant is neither precluded from entering a Contract nor debarred by PPRA.
  - 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.

## **23. Public Opening of Financial Proposals**

### **23.1 Unsuccessful Proposals**

After the technical evaluation is completed, the Procuring Entity shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score, advising them the following: (i) their Proposal was not responsive to the RFP and TOR or did not meet the minimum qualifying technical score;(ii)provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion; (iii) their Financial Proposals will be returned unopened after completing the selection process and Contract signing; and (iv ) notify them of the date, time and location of the public opening of the Financial Proposals and invite them to attend.

### **23.2 Financial Proposals for QBS, CQS and SSS**

Following the ranking of the Technical Proposals, when the selection is based on QBS or CQS, the top-ranked Consultant is invited to negotiate the Contract. Only the Financial Proposal of the technically top-ranked Consultant is opened by the opening committee. All other Financial Proposals shall be returned unopened after the Contract negotiations are successfully concluded and the Contract is signed with the successful Consultant.

When the selection is based on the SSS method and if the invited Consultant meets the minimum technical score required passing, the financial proposal shall be opened and the Consultant invited to negotiate the contract.

### **23.3 Financial Proposals for QCBS, FBS, LCS**

Following the ranking of the Technical Proposals, and after internal approvals, the Procuring Entity shall simultaneously notify in writing those Consultants whose Proposals were considered responsive to the RFP and TOR, and that have achieved the minimum qualifying technical score, advising them the following: (i) their Proposal was responsive to the RFP and TOR and met the minimum qualifying technical score; (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion;(iii) their Financial Proposal will be opened at the public opening of Financial Proposals; and (iv) notify them of the date, time and location of the public opening and invite them for the opening of the Financial Proposals.

### **23.4 Opening of Financial Proposals**

The opening date should allow the Consultants sufficient time to decide for attending the opening and shall be no less than five (5) Business Days from the date of notification of the results of the technical evaluation, described in ITC 22.1 and 22.2.

The Consultant's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant's choice.

The Financial Proposals shall be opened publicly by the Procuring Entity's opening committee in the presence of the representatives of the Consultants and anyone else who chooses to attend. Any interested party who wishes to attend this public opening should contact the Procuring Entity as indicated in the Data Sheet. At the opening, the names of the Consultants, and the overall technical scores, including the break-down by criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Consultants who submitted Proposals.

## **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 so as 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 the 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 sand responsibilities and any other requirements of the RFP document.
- 27.3 After evaluation of the price analyses, 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 high based on wrong estimated 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. Fixed Budget Selection (FBS) Method**

29.2 In the case of FBS, those Proposals that exceed the budget indicated in ITC 14.1.4 of the Data Sheet shall be rejected. The Procuring Entity's evaluation committee will select the Consultant with the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, notify and invite such Consultant to negotiate the Contract.

**c. Least Cost Selection (LCS) Method**

29.3 In the case of Least-Cost Selection (LCS), the Procuring Entity's evaluation committee will select the Consultant whose Proposal is the lowest evaluated total price among those Proposals that achieve the minimum technical score required to pass, notify the Consultant and invite the Consultant to negotiate the Contract.

**d. Combined Technical and Evaluation Report**

29.4 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 the 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 was 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 typically charged rates by consultants in similar contracts or the professional practice. 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 QB Sand 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 offered Key Experts and Non-Key Experts' remuneration rates 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 initialed 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 Consider carefully 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.

## SECTION 2 (B). DATA SHEET

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
<b>A. General Provisions</b>	
1(k)	Electronic procurement system shall be used: (a) No If yes. Electronic –Procurement System The Procuring Entity shall use the following electronic-procurement system to manage this Request for Proposal process: [insert name of the e-system and url address or link] NOT APPLICABLE The electronic-procurement system shall be used to manage the following part of the RFP process: [list the parts of process e.g., issuing RFP, submissions of technical and financial Proposals, opening of Proposals etc. and insert such additional information in this Data Sheet as is required to describe these processes] NOT APPLICABLE
2.1	Name of the Procuring Entity: <u>__KENYA URBAN ROADS AUTHORITY__</u>  The consultant selection method is: <i>[Procuring Entity to choose ONE of the selection methods by placing an X]</i>  Quality and Cost Based Selection Method (QCBS) [ <input checked="checked" type="checkbox"/> ] Quality Based Selection Method (QBS) [ <input type="checkbox"/> ] Least Cost Selection Method (LCS) [ <input type="checkbox"/> ] Consultant Qualification Selection Method (CQS) [ <input type="checkbox"/> ] Fixed Budget Selection Method (FBS) [ <input type="checkbox"/> ] Single Source Selection Method (SSS) [ <input type="checkbox"/> ]
2.2	Financial Proposal to be submitted together with Technical Proposal in separate envelopes: Yes  The name of the assignment is: <b>CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORISED TRANSPORT (NMT) MASTER PLAN, PRELIMINARY AND DETAILED ENGINEERING DESIGN FOR MOMBASA CITY.</b>
2.3	A pre-proposal conference will be held : <b>YES</b> <i>[If “Yes”, fill in the following:]</i>  Address: <u>PO BOX 41727- 00100 NAIROBI.</u> <u>BARABARA PLAZA, BLOCK D, GROUND FLOOR, SUPPLY CHAIN</u> <u>MANAGEMENT OFFICE, MAZAO ROAD, OFF SOUTH AIRPORT RD, JKIA.</u> <u>NAIOBI, KENYA.</u> Telephone: <u>___0717105233</u> E-mail: <u>___supplychain@kura.go.ke</u>  Title of contact person: <u>__DEPUTY DIRECTOR (SCM)</u>
2.4	The Procuring Entity <b>MAY</b> provide Previous data of the specific roads if available, or any project data available to facilitate the preparation of the Proposals: <b>YES</b>
3.3 (iv)	<i>[Insert any other conflicting relationships]</i> <u>___NONE_____</u>
4.1	<i>[If “Unfair Competitive Advantage” applies to the selection, explain how it is mitigated, including listing the reports, information, documents, etc. and indicating the sources where these can be downloaded or obtained by the Consultants]</i> <b>NONE</b>
6.2	Maximum number of members in the Joint Venture (JV) shall be: <b>[2]</b> .

Reference to ITC Clause	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
6.6 (a)	The list of debarred firms and individuals is available at the PPRA's website <a href="http://www.ppra.go.ke">www.ppra.go.ke</a> or email <a href="mailto:complaints@ppra.go.ke">complaints@ppra.go.ke</a>
6.7	The Project Director / Team Leader for the Assignment MUST be at least a Professional Engineer Registered by the Engineers Board of Kenya
<b>B. Preparation of Proposals</b>	
10.1	<p>The Proposal shall comprise the following:</p> <p>1<sup>st</sup> 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  Any other requested document.</p> <p>AND</p> <p>2<sup>nd</sup> Inner Envelope with the Financial Proposal:  (1) FIN-1: Financial Proposal Submission Form  (2) FIN-2: Summary of Costs  (3) FIN-3: Breakdown of Remuneration  (4) FIN-4: Breakdown of Reimbursable Expenses  And any other requested document</p>
11.1	Participation of Sub-consultants, and Key Experts in more than one Proposal is permissible: <b>No</b>
12.1	Proposals must remain valid for 210 days after the proposal submission deadline.
13.1	Clarifications may be requested no later than [7] days prior to the submission deadline. The contact information for requesting clarifications is: _ E-mail: <a href="mailto:supplychain@kura.go.ke">supplychain@kura.go.ke</a>
	<p>(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.</p> <p>(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.</p>
14 (b) (do not use for Fixed Budget method)	Estimated input of Key Experts' time-input: _ NOT APPLICABLE _____ person-months. [OR] Estimated total cost of the assignment: NOT APPLICABLE.
14 (c) and 26.2 [use for Fixed Budget method]	NOT APPLICABLE The total available budget for this Fixed-Budget assignment is: Kenya shillings Thirty Million (Kshs.30, 000,000.00. Inclusive of taxes). Proposals exceeding the total available budget will be rejected. <b>Public procurement Capacity Building Levy =0.03 %( Kshs.9000).</b>

Reference to ITC Clause	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
14 (d)	Key Experts shall not appear in more than one proposal: <b>YES</b>
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 purchase or rent or freight of any equipment or software required to be provided by the Consultants;</i> (6) <i>Cost of reports production (including printing) and delivering to the Procuring Entity.</i> (7) <i>Other allowances where applicable and provisional or fixed sums (if any)]</i> (8) <i>Facilitation of clients staff</i>
16.2	A price adjustment provision applies to remuneration rates: <b>NO</b> <i>[The price adjustment applies to Time-Based contracts with a duration exceeding 18 months. In exceptional circumstances, price adjustment can also apply to Lump-Sum contracts assignments longer than 18 months in duration with prior agreement with the Procuring Entity]</i> <i>[If “Yes”, specify whether it applies to foreign and/or local inflation]</i>
16.3	NOT APPLICABLE [If the Procuring Entity has obtained a tax exemption applicable to the Contract, insert: “The Procuring Entity has obtained an exemption for the Consultant from payment of _____ <i>[insert the tax description such as VAT, withholding tax, duties, etc.]</i> in Kenya as per <i>[insert reference to the applicable official source that issued an exemption]</i> . <i>[If there is no tax exemption in Kenya, insert the following:</i> “Information on the Consultant’s tax obligations in the Procuring Entity’s country can be found on the Kenya Revenue Authority website: <a href="http://www.kra.go.ke">www.kra.go.ke</a> ”
16.4	The Financial Proposal should state local costs in Kenya Shillings: <b>Yes</b>
<b>C. Submission, Opening and Evaluation</b>	
17.1	The Consultants <b>SHALL NOT</b> have the option of submitting their Proposals electronically.
17.5	The Consultant must submit: (a) Technical Proposal: one (1) original and one (2) copy (b) Financial Proposal: one (1) original and one (2) copy
18.5	The Proposals must be submitted no later than: <b>As indicated in the Tender Notice</b> The Proposal submission address is: _ DIRECTOR GENERAL KENYA URBAN ROADS AUTHORITY P O BOX 41727-00100 NAIROBI. BARABARA PLAZA, BLOCK D, GROUND FLOOR, SUPPLY CHAIN MANAGEMENT OFFICE, MAZAO ROAD, OFF SOUTH AIRPORT RD,

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS																																
	JKIA, NAIROBI, KENYA.																																
20.1	<p>An online option of the opening of the Technical Proposals is offered: <b>NO</b>  <i>[If yes, insert "The online opening procedure shall be: [describe the procedure for online opening of Technical Proposals.]</i></p> <p>The opening shall take place immediately after submission at:            BARABARA PLAZA, BLOCK D, GROUND FLOOR MEETING ROOM NO. 6,            MAZAO ROAD, OFF SOUTH            AIRPORT RD, JKIA. NAIROBI,            KENYA.</p>																																
20.2	<p>In addition, the following information will be read aloud at the opening of the Technical Proposals _____</p> <ol style="list-style-type: none"> <li>1. Tender Name, Number, category e.g. (All, women...)</li> <li>2. Name of the Bidder</li> <li>3. Serialization and last page number.</li> <li>4. Professional indemnity cover, amount and Insurance Company (Where applicable)</li> </ol>																																
22.1	<p>Other eligibility and mandatory criteria shall be:</p> <table border="1" data-bbox="312 1010 1461 2121"> <thead> <tr> <th data-bbox="312 1010 852 1048">Mandatory / Other eligibility criteria</th> <th data-bbox="852 1010 1107 1048">Reference</th> <th data-bbox="1107 1010 1461 1048">Requirement</th> </tr> </thead> <tbody> <tr> <td data-bbox="312 1048 852 1115">Certified copy of Certificate of Incorporation</td> <td data-bbox="852 1048 1107 1115">Section 3. Form Tech:7</td> <td data-bbox="1107 1048 1461 1115">A copy should be attached.</td> </tr> <tr> <td data-bbox="312 1115 852 1182">Tax Compliance Certificate</td> <td data-bbox="852 1115 1107 1182">Section 3 Form Tech:7</td> <td data-bbox="1107 1115 1461 1182">Valid Tax compliance certificate.</td> </tr> <tr> <td data-bbox="312 1182 852 1283">Submission of Technical Proposal.</td> <td data-bbox="852 1182 1107 1283">ITC: 22.1(a)</td> <td data-bbox="1107 1182 1461 1283">Firm has submitted the original Technical Proposal.</td> </tr> <tr> <td data-bbox="312 1283 852 1350">Submission of financial proposal</td> <td data-bbox="852 1283 1107 1350">ITC: 22.1(a)</td> <td data-bbox="1107 1283 1461 1350">Firm has submitted a sealed original financial proposal</td> </tr> <tr> <td data-bbox="312 1350 852 1485">Curriculum Vitae (CV) of the proposed key staff</td> <td data-bbox="852 1350 1107 1485">Section 3, Form Tech:6</td> <td data-bbox="1107 1350 1461 1485">Fully filled and signed by the key expert and the authorized firm representative.</td> </tr> <tr> <td data-bbox="312 1485 852 1597">Certified copies of Professional membership certificates of the proposed key staff</td> <td data-bbox="852 1485 1107 1597">Section 3, Form Tech:7</td> <td data-bbox="1107 1485 1461 1597">Certified copies by Commissioner of Oaths.</td> </tr> <tr> <td data-bbox="312 1597 852 1664">Certified copies of academic certificates and testimonials of the proposed key staff</td> <td data-bbox="852 1597 1107 1664">Section 3, Form Tech:7</td> <td data-bbox="1107 1597 1461 1664">Certified copies by commissioner of Oaths.</td> </tr> <tr> <td data-bbox="312 1664 852 1765">Practicing Licence and certificate of registration with the Land Surveyors Board (LSB)</td> <td data-bbox="852 1664 1107 1765">Section 3, Form Tech:7</td> <td data-bbox="1107 1664 1461 1765">Certified copies by commissioner of Oaths.</td> </tr> <tr> <td data-bbox="312 1765 852 2121">Similar consulting assignments experience</td> <td data-bbox="852 1765 1107 2121">Section 3, Form Tech:2, b and Form Tech: 7, d</td> <td data-bbox="1107 1765 1461 2121"> <p>Fully filled, signed and stamped.</p> <p>Attach copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of similar assignments carried out by the firm.</p> </td> </tr> </tbody> </table>			Mandatory / Other eligibility criteria	Reference	Requirement	Certified copy of Certificate of Incorporation	Section 3. Form Tech:7	A copy should be attached.	Tax Compliance Certificate	Section 3 Form Tech:7	Valid Tax compliance certificate.	Submission of Technical Proposal.	ITC: 22.1(a)	Firm has submitted the original Technical Proposal.	Submission of financial proposal	ITC: 22.1(a)	Firm has submitted a sealed original financial proposal	Curriculum Vitae (CV) of the proposed key staff	Section 3, Form Tech:6	Fully filled and signed by the key expert and the authorized firm representative.	Certified copies of Professional membership certificates of the proposed key staff	Section 3, Form Tech:7	Certified copies by Commissioner of Oaths.	Certified copies of academic certificates and testimonials of the proposed key staff	Section 3, Form Tech:7	Certified copies by commissioner of Oaths.	Practicing Licence and certificate of registration with the Land Surveyors Board (LSB)	Section 3, Form Tech:7	Certified copies by commissioner of Oaths.	Similar consulting assignments experience	Section 3, Form Tech:2, b and Form Tech: 7, d	<p>Fully filled, signed and stamped.</p> <p>Attach copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of similar assignments carried out by the firm.</p>
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Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS	
	Current workload	Section 3, Form Tech:2, b and Form Tech: 7, e Fully filled, signed and stamped. Attach copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of similar assignments carried out by the firm.
	Certificate of independent proposal determination with written power of Attorney/Affidavit	Section 3 Form Tech-1 ITC 22.1 (d) -Fully filled, signed, dated and stamped. -The Technical Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
	Litigation history	Section 3, Form Tech: 7, Attach an affidavit.
	Serialization	Tender notice All pages should be chronologically and sequentially serialized including cover page, all other pages and attachments.
	Mutilation of Bid document	Tender notice Technical proposal document should be properly bound and not mutilated.
	Valid Bid Bond (Where applicable)	Section 2-B; 12.1 Original and specific to the tender. The Proposal is valid for the required number of days
	CR12 (for Limited companies), CR13(for Business) and IDs of the Directors	Section 3. Form Tech; 7 Tender notice CR12 or CR13 to be system generated and valid for the period specified. Copies of IDs of all directors certified by the commissioner of Oaths.
	Evidence of pre-proposal conference attendance (WHERE APPLICABLE)	Section 3. Form Tech; 7 (Mandatory support documents) Procurement entity to confirm from the attendance register.
	Page initialization	ITC 17.2 Initial all pages of both technical and financial proposals by the person with power of Attorney.
	Dully filled forms	ITC: 22.1(e) The Technical Proposal is complete with all the forms and required documentary evidence submitted.
	Participation of key experts	ITC: 22.1(h) Key experts do not appear in more than one proposal, if so required
	Participation in other proposals by bidder	ITC: 22.1(i) A short-listed firm has not participated in more than one proposal



Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS																
	Evidence that the consultant is not insolvent.	ITC: 22.1(j)	The Consultant is not insolvent, in receivership, bankrupt or in the process of being wound up. Attach CERTIFIED 6-month bank statements.														
	Declaration form that the firm has or will not engage in any corruption or fraudulent practice.	ITC: 22.1(k) Form	Form fully filled, signed and stamped as required.														
	Declaration for debarment	ITC: 22.1(l)	Form fully filled and signed as required. The Consultant is neither precluded from entering a Contract nor debarred by PPRA														
	The firm has not proposed employing public officials, civil servants and employees of public institutions		Declare in writing with the consultant's letter head that no engagement of public officers in the assignment.														
	Conflict of interest	ITC: 22.1(m)	The consultant to declare in writing that The Consultant, and key experts have no conflicts of interest.														
	<b>ALL CERTIFICATION SHALL BE BY COMMISSIONER OF OATHS.</b>																
22.2	<p>The Criteria, sub-criteria, and point system for the evaluation of the Technical Proposals: <i>[Note to Procuring Entity: Allocation of points shall be within the range provided for each criterion and sub-criteria]</i></p> <p><u>Points</u></p> <p>I Specific experience of the Consultant, as a firm, relevant to the Assignment: <b>[0-10]</b></p> <p><b>Total Points for criterion (i): [10]</b></p> <p>(ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs):</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 80%;">(a) Technical approach and methodology</td> <td style="text-align: right;">[0-10]</td> </tr> <tr> <td>(b) Work plan</td> <td style="text-align: right;">[0-10]</td> </tr> <tr> <td>(c) Organization and staffing</td> <td style="text-align: right;">[0-5]</td> </tr> </table> <p><b>Total points for criterion (ii) [25]</b></p> <p><i>[Notes to Consultant: The Procuring Entity will 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]</i></p> <p>(iii) Key Experts' qualifications and competence for the Assignment:  <i>{Notes to Consultant: each position number corresponds to the same for the Key Experts in Form TECH-6 to be prepared by the Consultant}</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%; text-align: center;">A</td> <td style="width: 20%;">Project Director / Team Leader</td> <td style="width: 40%;">Master In Transportation Engineering / Civil Engineering/ Planning/ Urban Design, and in Bsc. In Civil Engineering (First Degree), Professional Engineer</td> <td style="width: 15%;">15 Years of experience in Field of Urban Design/ Planning</td> <td style="width: 10%; text-align: center;">7</td> <td style="width: 5%; text-align: center;">45</td> </tr> </table>					(a) Technical approach and methodology	[0-10]	(b) Work plan	[0-10]	(c) Organization and staffing	[0-5]	A	Project Director / Team Leader	Master In Transportation Engineering / Civil Engineering/ Planning/ Urban Design, and in Bsc. In Civil Engineering (First Degree), Professional Engineer	15 Years of experience in Field of Urban Design/ Planning	7	45
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Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS				
	B.	Materials Engineer	Professional Civil Engineer	8 Years of experience in Relevant Field	5
	C.	Electrical Engineer	Professional Electrical Engineer.	8 Years of experience in Relevant Field	6
	D.	Architect/ Urban Designer	Professional Civil Engineer/Architect. In addition shall possess Master's degree in Urban Planning/Designing.	8 years in consultancy and advisory assignments in urban transport planning / NMT planning/Public transport planning	5
	E.	Urban Highway Design Engineer	Professional Civil Engineer.	8 Years of experience in designing urban roads.	4
	F.	Transport Planner / Engineer	Masters in Planning/Masters of Engineering in Traffic and Transport Eng or equivalent	8 Years of experience in Relevant Field.	4
	G.	Landscape Specialist	Registered Landscape Architecture by Relevant Body	8 Years of experience in designing public spaces.	4
	H	Land Surveyor	Registered Engineering Surveyor or equivalent	5Years of experience in relevant field	4
	I	Social and Environmental Expert	Graduate In Social Work/Sociology/Environment Studies	8 Years of experience in relevant field	3
	J	Structural / Drainage Engineer	Professional Civil /Structural Engineer	5 Years of experience in design of pedestrian bridges	3
<p><b>Total points for criterion (iii):</b> <span style="float: right;"><b>[45]</b></span></p> <p>The number of points to be assigned to each of the above Key Experts positions shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <p>(1) General qualifications (general education, training, and experience) [ 40 %]</p>					

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<p>(2) Adequacy for the Assignment (relevant education, training, experience in the sector or similar assignments): [50%]</p> <p>(3) Relevant experience in the Kenya (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): [10 %]  <b>Total weight: 100%</b></p> <p>(iv) Transfer of knowledge and training program (relevance of approach and methodology):  <b>[10 %].</b></p> <p>(a) Relevance of training program [2]  (b) Training approach and methodology [4]  (c)Qualifications of experts and trainers [4]</p> <p><b>Total points for criterion (iv): [10]</b></p> <p>(v) Participation by Kenya citizens among proposed Key Experts [ 10]</p> <p><i>[not to exceed 10 points] [Sub-criteria shall not be provided. Calculated as a ratio of the Kenyan Key Experts' time-input (in person-months) to the total number of Key Experts' time-input (in person-months) in the Consultant's Technical Proposal]</i></p> <p><b>Total points for the five criteria: <u>100</u></b></p> <p>The minimum technical score (St) required to pass is: <b><u>80</u></b></p>
or23.4	An online option of the opening of the Financial Proposals is offered: <b>No</b>
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 <b><u>Kenya Shillings</u></b></p> <p>The official source of the selling exchange rate is: NOT APPLICABLE</p> <p>The date of the exchange rate is: _____NOT APPLICABLE</p>
29.1 (QCBS only)	<p>The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100. The formula for determining the financial scores (Sf) of all other Proposals is calculated as following:  <math>Sf = 100 \times Fm / F</math>, in which "Sf" is the financial score, "Fm" is the lowest price, and "F" the price of the proposal under consideration.</p> <p>The weights given to the Technical (T) and Financial (P) Proposals are:  T = <u>0.8</u> and  P = 0.2</p> <p>Proposals are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: <math>S = St \times T\% + Sf \times P\%</math>.</p>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
31	<p>The Standstill Period shall be: 14 days after award.</p> <p>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.</p>
	D. Negotiations and Award
32.1	<p>Expected date and address for contract negotiations:</p> <p>Date: Shall be communicated</p> <p><b>Address:</b> __ Barabara Plaza, Block D, Ground Floor Board Room, West wing, Mazao Road, Off South Airport Rd, JKIA, opposite Aviation House, Nairobi, Kenya</p>
35.2	<p>Expected date for the commencement of the Services:</p> <p>Date: <b>Fourteen (14) days after order to commence</b></p>
36.1	<p>The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as following:</p> <p><b>The publication will be done within 30 days after the contract signing.</b></p>

## SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS

*{Notes to Consultant shown in brackets {} throughout Section 3 provide guidance to the Consultant to prepare the Technical Proposal; they should not appear on the Proposals to be submitted.}*

### FORM TECH-1: TECHNICAL 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 RFP dated *[Insert Date]* 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 our 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 or maybe sanctioned by the PPRA.
- b) Our Proposal shall be valid and remain binding upon us for the period of time 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 in regard to 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 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.
- l) 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 or a debarment imposed by the PPRA.
- (e) Except as stated in the ITC12 and Data Sheet, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause12

and ITCC clause 29.3 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 *{In full and initials}*: .....  
Name and Title of Signatory: .....  
Name of Consultant (*company's name or JV's name*): .....  
Contact information (*phone and e-mail*): .....

{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}

**1. CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION**

I, the undersigned, in submitting the accompanying TECHNICAL PROPOSAL SUBMISSION FORM to the \_\_\_\_\_  
\_\_\_\_\_ [Name of Procuring Entity]

for: \_\_\_\_\_ [Name and number of tender] 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:

- 5. 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;
- 1. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
- 2. 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 or not affiliated with the Tenderer, who:
  - Has been requested to submit a Tender in response to this request for tenders;
  - could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
- 3. The Tenderer discloses that [check one of the following, as applicable]:
  - The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
  - The Tenderer has entered into 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;
- 4. In particular, 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:
  - prices;
  - methods, factors or formulas used to calculate prices;
  - the intention or decision to submit, or not to submit, a proposal; or
  - 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;
- 5. 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;
- 6. 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, which ever 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. APPENDIX TO FORM OF PROPOSAL ON FRAUD AND CORRUPTION CLAUSE (for information)**

*(Appendix shall not be modified)*

#### **Purpose**

the government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

#### **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 into 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



- recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii) “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;
  - iv) “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;
  - v) “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 Public Procurement Regulatory Authority (PPRA) 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 PPRA's 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 a misrepresentation of fact in order 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<sup>1</sup> of a contract if PPRA 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, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect<sup>2</sup> all 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 PPRA 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.

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<sup>1</sup> For 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 into an addendum or amendment introducing a material modification to any existing contract.

<sup>2</sup> 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 thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

### 3. 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 assignments successfully completed in the last [.....10.....] 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), purchase order, service order, performance certificate, etc.; which shall be included in the proposal as part of *Form Tech 7 Mandatory Documentary Evidence*.

<b>Assignment name:</b>	<b>Approx. value of the contract [KES, US\$ etc.]:</b>
Country:	Duration of assignment (months):
Name of Procuring Entity:	Total N <sup>o</sup> 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:	N <sup>o</sup> of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g. <i>Lead Member in ABC JV, or Sole Consultant</i> ):	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:	Name and Title of Signatory:

## FORM TECH-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 the 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 FORM TECH-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 sin 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 ports. 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.}*

**4 FORM TECH-5: WORK SCHEDULE AND PLANNING FOR DELIVERABLES**

N°	Deliverables <sup>1</sup> (D-..)	Months											TOTAL	
		1	2	3	4	5	6	7	8	9	.....	n		
D-1	{e.g., Deliverable #1: Report A													
	1) data collection													
	2) drafting													
	3) inception report													
	4) incorporating comments													
	5) .....													
	6) delivery of final report to Procuring Entity}													
D-2	{e.g., Deliverable #2:.....}													
N														

- 1 List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Procuring Entity's approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in a form of a bar chart.
- 3 Include a legend, if necessary, to help read the chart.

## 6. FORM TECH- 6A: TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Expert's input (in person/month) per each Deliverable (listed in TECH-5)										Total time-input (in Months)			
		Position		D-1		D-2		D-3	.....	D-...			Home	Field	Total
<b>KEY EXPERTS</b>															
K-1	{e.g., Mr. Abbbb}	[Team Leader]	[Home]	[2 month]	[1.0]	[1.0]									
			[Field]	[0.5 m]	[2.5]	[0]									
K-2															
K-3															
N															
										Subtotal					
<b>NON-KEY EXPERTS</b>															
N-1			[Home]												
			[Field]												
N-2															
N															
										Subtotal					
										Total					

1.For Key Experts, the input should be indicated individually for the same positions as required under the ITC Data Sheet 21.2

2.Months are counted from the start of the assignment/mobilization. One (1) month equals twenty-two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.

3“Home” means work in the office in the expert’s country of residence. “Field” work means work carried out in Kenya, or outside the normal residence of the Expert in Kenya or any other country outside the expert’s country of residence.

 Full time input
  Part time input

## 7. FORM TECH-6B: CURRICULUM VITAE (CV)

Position Title and No.	{e.g., K-1, Team Leader}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship	

**Education:** {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Procuring Entity's and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact Infor for references	Country	Project /Summary of activities performed relevant to the Assignment
[e.g., May 2011-present]	[e.g., Ministry of ....., advisor/consultant to... For references: Tel...../e-mail..... XXXXXXXXXXXX, ]		

Membership in Professional Associations and Publications: \_\_\_\_\_

Language Skills (indicate only languages in which you can work): \_\_\_\_\_

Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant's Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}	

Expert's contact information :(e-mail..... phone.....)

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 PPRA.

Name of Expert \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_  
{ day / month/year }

Name of authorized \_\_\_\_\_ Signature. \_\_\_\_\_ Date \_\_\_\_\_

Representative of the Consultant (the same who signs the Proposal)

## 8. 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

*{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 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) Current work load.

*{Consultant to insert here copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of current work load carried out by the firm.}*

- f) CVs of the key experts as per the provided FORM TECH-6B

- g) Academic Certificates

*{Consultant to insert copies of the required relevant academic certificates relevant to the assignment for all the key experts}*

- h) Professional Certificates

*{Consultant to insert copies of professional certificates and relevant short-term trainings to demonstrate professional qualifications for all the key experts}*

- i) Professional Membership of Key Experts

*{Consultant to insert copies of professional membership certificate for its key experts}*

- j) Certificate of Independent Proposal Determination

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

- k) Valid Bid Bond where necessary  
*(Consultant to insert the original)*

- l) Litigation History (attached an affidavit)

- m) Evidence of pre-proposal conference attendance.  
*(To refer to KURA meeting attendance Register)*

**FORM TECH - 8: SELF-DECLARATION FORMS**

**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 **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 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



**FORM SD2**

**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.....

**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 off[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

## **SECTION 4. FINANCIAL PROPOSAL - STANDARD FORMS**

*{Notes to Consultant shown in brackets {.....} they should not appear on the Financial Proposals to be submitted.}*

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

FIN-3 Breakdown of Remuneration

FIN-4 Reimbursable expenses

**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 our Technical Proposal.

Our attached Financial Proposal is for the amount of..... {Indicate the corresponding to the amount currency} {Insert amounts in words and figures}, 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 of time 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,

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

**FORM FIN-2: SUMMARY OF COSTS**

	<b>ITEM</b>	<b>COST</b>
	<b>Cost of the Financial Proposal</b>	<i>Amount in Kenya Shillings (KES)</i>
	(1) Remuneration	
	(2) Reimbursable	
<b>A</b>	<b>Subtotal 1. [Remuneration + Reimbursable]</b>	
<b>B</b>	Add <b>16%</b> VAT to Subtotal 2.	
	<b>Total Cost of the Financial Proposal: =C+D</b> <b>{Should match the amount in Form FIN-1}</b>	

**FORM FIN-3A: BREAKDOWN OF REMUNERATION**

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for the calculation of the Contract's ceiling amount; to calculate applicable taxes at contract negotiations; and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This Form shall not be used as a basis for payments under Lump-Sum contracts.

<b>A. Remuneration</b> _____					
No	Name	Position (as in TECH-6)	Person-month Remuneration Rate	Time Input Person/Month (from TECH-6)	{Local Currency- as in FIN-2}
<b>Key Experts</b>					
K-1		Project Director (Team Leader)	[Home]		
			[Field]		
K-2		Materials Engineer	[Home]		
			[Field]		
K-3		Electrical Engineer	[Home]		
			[Field]		
K-4		Professional Civil Engineer/Architect	[Home]		
			[Field]		
K-5		Highway Urban Design Engineer	[Home]		
			[Field]		
K6		Transport Planner/Engineer	[Home]		
			[Field]		
K7		Landscape specialist	[Home]		
			[Field]		
K8		Land surveyor	[Home]		
			[Field]		
K9		Social and Environmental Expert	[Home]		
			[Field]		
K10		Structural & Drainage expert	[Home]		
			[Field]		
<b>Non-Key Experts</b>					
N-1			[Home]		
N-2			[Field]		
<b>Total Costs</b>					

## FORM FIN-4 BREAKDOWN OF REIMBURSABLE

When used for **Lump-Sum** contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for calculation of the Contract ceiling amount, to calculate applicable taxes at contract negotiations and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This form shall not be used as a basis for payments under Lump-Sum contracts. This form shall be filled for Time-Based Contracts to form the basis of contract negotiations.

B. Reimbursable Expenses_____					
N°	Type of Reimbursable Expenses	Unit	Unit Cost	Quantity	Kenya Shillings (KES)
	{ e.g., Per diem allowances** }The consultant shall cater for the clients key staff's per diem including travel expenses and substinence allowance 1. Director 2. Project Engineer 3. Deputy Project Engineer 4. Surveyor 5. Environmentalist/Sociologist	{ Day }		5	1,500,000.00
	{ e.g., international flights }	{ Ticket }		None	
	{ e.g., In/out airport transportation }	{ Trip }		None	
	{ e.g., Communication costs between Insert place and Insert place }	Air time		None	
	{ e.g., reproduction of reports }				
	{ e.g., Office rent }				
	{ Procurement and supply of Procuring entity Printing Facilities and toners }	No	150,000.00	2	300,000.00
	{ Training of the Procuring Entity's personnel – if required in TOR }	No.		None	
Total Costs					

### Legend:

“Per diem allowance” is paid for each night the expert is required by the Contract to be away from his/her usual place of residence. Procuring Entity can set up a ceiling.



## **APPENDIX A. TERMS OF REFERENCE**

# **CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORIZED(NMT) MASTER PLAN, PRELIMINARY & FINAL ENGINEERING DESIGN FOR MOMBASA CITY**

## **1.0 STUDY BACKGROUND**

### **1.1 General**

The Kenya Urban Roads Authority (KURA), leveraging funding from the Road Maintenance Levy Fund (RMLF), aims to redesign and develop streets in the specified area to be future-ready use, emphasizing both mobility and liveability. This project seeks to engage technical consultants to design linked Non-Motorized Transport (NMT) Network for Mombasa City, creating comprehensive networks for walking and cycling. The network plan will also include a phased implementation strategy, outlining the sequence in which streets should be redesigned. Additionally, consultants will identify critical roads and junctions that support NMT facilities and conduct detailed redesigns of these roads and junctions.

### **1.2 Selection Criteria**

The Consultant shall be selected based on Quality and Cost Based Selection Considerations. The selected Lead Consultant should bring together a competent group of firms/professionals with sufficient and extensive experience in the following broad categories.

- a) Architecture/Planning,
- b) Engineering Surveying,
- c) Highway Design
- d) Electrical Engineer
- e) Transportation Engineer
- f) Social & Environmental specialist
- g) Materials Engineer
- h) Landscape Architect

### **1.3 Project Description**

#### **1.3.1 Project Location**

Mombasa City, located along the south-eastern coast of Kenya, is a vibrant coastal hub approximately 480 kilometres from Nairobi. It serves as the country's second-largest city and a key gateway for international trade and tourism, thanks to its busy port and rich cultural heritage. The city's diverse population enjoys a mix of modern amenities and historical sites, reflecting its unique blend of Swahili, Arab, and colonial influences. In addition to motorized transport options like buses and taxis, the local government is increasingly focusing on developing a well-organized system of non-motorized transport, including walking and cycling. These affordable and healthy modes of movement enhance accessibility, particularly for first and last-mile connectivity to public transport systems. Improved walking and cycling infrastructure not only supports public transport ridership but also promotes a sustainable urban environment, ultimately benefiting the broader community and contributing to Mombasa's growth as a liveable city.

## **2.0 OBJECTIVES OF THE ASSIGNMENT**

The overall objective of the project is To enhance NMT infrastructure and promote walking and cycling in Mombasa City, improving accessibility, health, and sustainability.

## 3.0 SCOPE OF SERVICES AND EXPECTED DELIVERABLES

### 3.1 General

The Consultant shall perform all work necessary as called for in these Terms of Reference including investigation and analysis of existing information, computation and compilation of related documents and drawings, and field survey. The methodology used shall employ the internationally acceptable survey techniques and applicable standards of Engineering and Title Survey in Kenya. In carrying their work, the Consultant shall cooperate fully with the concerned agencies of the Government of Kenya, in particular the Ministry of Roads and Transport, (MoRT); and the State Corporations operating under it, the Ministry of Lands and Physical Planning (MoL&PP), the Ministry of Interior & Coordination of National Government, the County Governments amongst others. The Consultant shall provide the necessary support services related to and necessary for the completion of the assignment. The work shall cover but not be limited to the aspects outlined in these Terms of Reference.

### 3.2 Description

The Consultant selected to undertake the Services shall have had extensive experience in Urban Designs.

This is a **Lump Sum Contract**

#### 3.2.1 The study consists of: -

The project consists of three activities as follows: -

##### 3.2.1 Creation of a Walking and Cycling Masterplan for the City of Mombasa.

The Consultant shall;

- a) Study and map existing and proposed transport and urban infrastructure plans for the town including transit corridors, existing NMT infrastructure, etc. along with Road reserve, mapping street hierarchy and accident hotspots, to identify the primary network of streets.
- b) Map key landmarks like schools, markets, parks, religious institutions, etc. to identify the secondary network of streets.
- c) Map land use and activities to identify streets with unique characteristics as special projects.
- d) On-site verification, cyclist surveys and focus group discussions to understand on-ground reality, and issues and concerns from different stakeholders involved.
- e) Develop a town-wide master plan for walking and cycling based on the study findings.
- f) Create a phasing plan and estimates for each phase; including identifying quick wins informed by the study to be designed first.

##### 3.2.2 Detailed design for streets within the identified study area

The Consultant shall;

- a) Study and survey including topography survey, land use, pedestrian and cyclist facilities and movements, parking study, vending and landscape study.
- b) Public/Stakeholder Consultations.
- c) Detailed designs and drawings.
- d) Finalize Schedule of Rates.
- e) Bill of quantities.

- f) Preparation of Tender Documents for contractors for construction.

### 3.3 DETAILED SCOPE OF WORK.

#### General

The Consultant shall Conduct comprehensive NMT needs assessments in Mombasa City. Carry out detailed stakeholder Engagement for Mombasa City. The list of stakeholders will be as approved by the Client.

To develop NMT master plan and implementation strategies for Mombasa city.

To carry out traffic engineering studies: Traffic data collection (motorized and non motorized), traffic analysis and future modelling

To provide detailed engineering Designs for NMT infrastructure, including safe walk ways, cyclist lanes, drainage and pedestrian crossings, employing a holistic approach, incorporating mobility and liveability elements.

To carry out environmental and social impact assessment study and provide reports.

To propose a phasing plan, which specifies the order in which streets will be taken up from the masterplan for redesign in the future

To ensure that the master plan and street design are based on scientific assessment of needs and behaviour of street users, as observed in the surveys as part of this study.

To provide training and capacity building for NMT stakeholders in Mombasa.

To monitor and evaluate NMT projects in Mombasa and make recommendations for improvements.

The consultant shall carry out the design work in such a manner and will ensure that the outputs accords in all respect with provisions of the design best practices and any other relevant regulations and shall be responsible for the correctness and completeness of activities carried out under the consultancy.

KURA will provide the Consultant with the data and services outlined herein. The Consultant shall be responsible, however for the computation, analysis and interpretation of all data received, and the conclusions and recommendations in his reports.

As the assignment progresses, the Consultant shall maintain close liaison with the relevant Government agencies and shall submit for approval, according to the work program, field notes, computations, copies of deed plans/ mutation forms, survey reports and any other relevant documents as required in relevant policies and legislation.

#### 5.2 Project Objectives

The overall objective of the project is to enhance NMT infrastructure and promote walking and cycling in Mombasa City, improving accessibility, health, and sustainability.

Specifically, the consultant shall be required:

- a) Conduct comprehensive NMT needs assessments in Mombasa City.
- b) Carryout detailed stakeholder Engagement for Mombasa City. The list of stakeholders will be as approved by the Client.
- c) To develop NMT master plan and implementation strategies for Mombasa city.
- d) To carry out traffic engineering studies: Traffic data collection (motorized and non motorized), traffic analysis and future modelling
- e) To provide detailed engineering Designs for NMT infrastructure, including safe walk ways, cyclist lanes, drainage and pedestrian crossings, employing a holistic approach, incorporating mobility and liveability elements.
- f) To carry out environmental and social impact assessment study and provide reports.
- g) To propose a phasing plan, which specifies the order in which streets will be taken up from the masterplan for redesign in the future
- h) To ensure that the master plan and street design are based on scientific assessment of

needs and behaviour of street users, as observed in the surveys as part of this study.

- i) To provide training and capacity building for NMT stakeholders in Mombasa.
- j) To monitor and evaluate NMT projects in Mombasa and make recommendations for improvements.

### 5.3 Legislation/ References

Work shall be performed and progressed in accordance with the requirements specified in the following documents (including all current updates):

- i) Standard specifications for Road and Bridge Construction 1986
- ii) Road Design Manual Part I – Geometric Design of Rural Roads 1979
- iii) Road Design Manual Part III – Pavement design and Materials 1987
- iv) Sample standard drawings
- v) Street Design Manual for Urban Areas in Kenya 2019(Draft)

And any other relevant document

### 5.4: Scope and Technical Specifications

The Scope of work broadly includes;

#### 1. Data collection and analysis.

- Traffic counts / surveys of both motorized and non motorized transport (including but not limited to pedestrians, cyclists among others)
- Traffic engineering analysis and report including current / baseline data, traffic analysis, traffic forecasting and traffic modelling.
- GIS mapping of Mombasa city current and proposed NMT network.

#### 2. Stakeholder engagement.

Carry out stakeholder engagement from inception of the services to completion of among others the following;

- Kenya National Highway Authority (KeNHA).
- Kenya Rural Roads Authority(KeRRA).
- County Government of Mombasa.
- Political leadership (MP and County Leadership)
- Kenya Ports Authority (KPA).
- Motorists and pedestrians.
- Matatu SACCO Associations.
- Traffic Police Service.
- Mombasa Residence Associations and community at large.
- Ministry of Lands, Physical Planning and Public Works.
- Ministry of Environment and Forestry (greening).
- Technical University of Mombasa
- Teachers Service Commission, Mombasa County
- Religious Institutions
- Any other as identified by the client etc.

#### 3. NMT planning

- Development of a Closed Loop & Interconnected NMT Master Plan and implementation strategies for Mombasa city.

#### 4. Detailed engineering design of NMT infrastructure

- Creation of safe and accessible NMT facilities in Mombasa, Including drainage works.

## 5. Construction supervision

- Oversight of NMT infrastructure implementation in Mombasa.

## 6. Capacity building

- Training for government officials, planners, and communities in Mombasa

## 7. Monitoring and evaluation.

- Assessment of project outcomes and recommendations for Mombasa.

### A) Creation of a Walking and Cycling Masterplan for the City of Mombasa.

- g) Study and map existing and proposed transport and urban infrastructure plans for the town including transit corridors, existing NMT infrastructure, etc. along with Road reserve, mapping street hierarchy and accident hotspots, to identify the primary network of streets.
- h) Map key landmarks like schools, markets, parks, religious institutions, etc. to identify the secondary network of streets.
- i) Map land use and activities to identify streets with unique characteristics as special projects.
- j) On-site verification, cyclist surveys and focus group discussions to understand on-ground reality, and issues and concerns from different stakeholders involved.
- k) Develop a town-wide master plan for walking and cycling based on the study findings.
- l) Create a phasing plan and estimates for each phase; including identifying quick wins informed by the study to be designed first.

### B) Detailed design for streets within the identified study area

- g) Study and survey including topography survey, land use, pedestrian and cyclist facilities and movements, parking study, vending and landscape study.
- h) Public/Stakeholder Consultations.
- i) Detailed designs and drawings.
- j) Finalize Schedule of Rates.
- k) Bill of quantities.
- l) Preparation of Tender Documents for contractors for construction.

#### 1.1.1. Details

##### A. Creation of Non-Motorized Transport Masterplan.

##### a) Study and map existing and proposed transport and urban infrastructure plans to identify primary network of streets

At the commencement of the project the Consultants are recommended to collect and study all relevant reports on transport and urban development projects; and compile spatial information on existing NMT infrastructure, pedestrian networks, mass transit corridors, public transport routes, bus stops, street hierarchy and accident hotspots presented in the reports given by relevant authorities. Particular attention must be given to the Comprehensive Traffic and Transportation Study, Comprehensive Mobility Plan, Multi-modal Integration plans, Comprehensive Development Plan, Parking study, Detailed Development Plan, policy initiatives and guidance, as well as any other transport plans related to the study area provided by National and County Governments. All streets in the Study Area, along with their legal RoWs, should be mapped using GIS or AutoCAD. The consultant should also study other relevant reports which could inform the primary network such as disaster assessment maps, ongoing water bodies' projects, solid waste management plans, etc. Areas where drainage works provision is required should be mapped out clearly. These engineering parameters should be mapped using the GIS platform or other illustration software. The Consultant should also identify transport system goals that are stated in these reports.

##### b) Map key landmarks to identify secondary network of streets

The consultant should map landmarks such as schools, colleges, markets, parks, hospitals, religious places, industries, museums, etc. This data will inform the selection of secondary networks which connects the primary network in the master plan.

##### c) Map land uses and activities to identify special characteristic projects

The consultant should identify and map key land uses and activities such as commercial streets, business districts, shopping stretches, temple streets, etc. which have the potential to become

special projects with unique characteristics

All the study compiled thus far in the Inception Report should be approved by KURA.

**d) On-site verification, cyclist surveys and focus group discussions**

- Once the maps are prepared, the consultant should verify on ground and cross-check the identified networks to understand how they are used.
- The consultant should also conduct interviews with cyclists to understand their place of origin and destination along with the preferred route, preferred time of travel, travel distance and purpose.
- The sample space of interviews should be large enough to be meaningful.
- The consultant shall conduct at least 3 focus group discussions with women, girls, schools to understand which public spaces they visit frequently or avoid and why, role of design and other measures to improve their experience.
- The discussions shall be organized to cover the following groups: college/university female students, women in informal settlements or informal women workers, professionals and homemakers and bodaboda bike riders.

**e) Developing a phase city-wide master plan for walking and cycling**

The consultant shall prepare a plan identifying street networks for redesign that is implemented over the years. The output created through this process includes a long-term masterplan for Mombasa city for walking and cycling, including estimated budget and phasing for implementation. The plan includes identifying primary and secondary networks of streets irrespective of RoW, to provide continuous footpaths, segregated cycle tracks (where possible), drainage works, proportionately-scaled carriageways, parking bays, safe crossings, etc. The plan will also include certain special projects as an added layer such as greenways, pedestrian-only streets, non-motorized and public transport-priority streets, shared-streets etc. The streets in the master plan can be identified based on following parameters:

**Primary network:** Streets along existing/proposed transport corridors and with related hubs such as railway stations, MRT station, bus terminal/stand, etc. to enhance last-mile connectivity and multi-modal integration.

**Secondary network:**

- Streets with high visitor intensity for work, education or recreation trips. For instance, zones around markets, institution, public spaces, schools, central business district, etc. can be considered.
- Streets that connect to institutions like schools, religious places, etc. can also be identified
- Streets surrounded by prominent city landmarks, connecting important landmarks or important heritage zones or a tourist destination.

**Special projects:**

- Streets that have the potential to transform the image of the city at a national/international level because of its character, location, and association with citizens. This will also attract a large number of tourists.
- Greenways network around water bodies and other ecological hotspots.
- Special projects such as spaces under flyovers and above subways, streets integrated with parks and reclaimed lands, etc.
- Streets with existing NMT infrastructure should be assessed for liveability and recommendations of components like street furniture, shade, lighting, etc. to improve liveability wherever needed should be made.

Similarly, origin-destination locations and other information identified from cyclist surveys will help create cycle networks. The walking and cycling networks should include missing link development to ensure integrated street design.

The consultant should provide design concepts for different neighbourhoods which will later inform the detailed street design.

**f) Create a plan and estimates for each phase; including identifying Quick wins**

After the creation of the NMT Master Plan, the consultant should develop a phasing plan indicating the street networks which will be redesigned in different phases. The phasing should be done in discussion with KURA, with high-priority networks redesigned first - such as accident-prone streets, streets with high mode share of walking and cycling, streets within a neighbourhood, etc. The phases of streets to be redesigned can also be decided based on estimates and available funds. The consultant should also identify streets and projects to be redesigned immediately as quick wins for KURA. The identified streets should at least be a total of 20km.

## **B. Detailed design for streets within the identified study area (Quick Wins)**

### **a) Study and survey**

The consultant should conduct the following surveys for the streets from the study area. Wherever possible, the data should be recorded using GIS or AutoCAD.

#### **i. Topography Survey**

The Consultant shall conduct total-station or equivalent survey to prepare base plans for the streets to be improved. The survey must cover all streets in the package. In the topography survey, all the above ground utilities including electricity overhead lines, utility and feeder boxes, and all other utilities should also be recorded. Areas for drainage improvement and rehabilitation should also be recorded. The coordinates of all points shall be tied to the National Survey Grid, Universal Transverse Mercator (UTM), and Arc 1960 datum. Bench marks and levels must also be tied to the National grid.

The alignment shall be connected to the National Grid System (U.T.M) by establishing a traverse network along the proposed road. This network shall be connected to the Survey of Kenya network, preferably data of the first order trigonometric stations. To this end a secondary network of Traverse Points (T.P) shall be established with side lengths of approximately 150 meters to the primary network

#### **ii. Study of land use and activity**

The Consultant will compile land use information to help inform street design decisions. Important activity generators adjacent to all Study Area streets, such as shopping areas, theatres, and housing developments, should be identified.

#### **iii. Survey of pedestrian and cyclist facilities**

The Consultant will document the quality of existing pedestrian facilities on all streets in the Study Area, noting properties such as the clear width of the footpath, the number of obstructions and the presence of shade at 2 p.m. (from buildings or trees). If cycle tracks are present in the Study Area, a similar survey should be carried out wherever they are present.

#### **iv. Survey of pedestrian and cyclist movement**

Surveys shall be carried out to assess non-motorized transport (NMT) user flows at important locations in the study area. The survey shall be from 06:00 to 22:00 on a normal working day. The Consultant will record the number of pedestrians and cyclists moving along the road on important corridors. The actual pedestrian movement lines should be mapped with varying thicknesses indicating various movement volumes.

#### **v. Parking study**

A parking study must be carried out to identify parking patterns, demand and occupancy rates, both on street and off-street in public spaces. The parking demand survey shall be conducted for one hour during morning peak and one hour in the evening peak period in such areas. If the street falls under the town's parking management system, the consultant is required to consult the County Government to coordinate the design of parking slots with the Parking Management Plan.

#### **vi. Study of street vending and related activities**

The consultant should study vending activities in the identified streets to generate an inclusive design. Information about vending should be collected from the County Revenue Department and all zones within the study area. The survey also should capture social gathering spaces and other activities found in the streets. This information will inform the placement of street furniture and other elements in the final design.

#### **vii. Landscape study**

The consultant must make note of all the trees and shrubs in the Study Area. The survey should note the type of trees and their current state. The consultant will coordinate with the Forestry Department in to collect this information. This will inform the placement of additional trees of native species in such a way that the final design results in a well-shaded street.

### **b) Detailed designs and drawings**

#### **i. Line drawings**

The Consultant shall prepare line drawings for all streets in the Study Area. Line drawings must clearly show the new kern line in reference to the road median. The drawing must be complete with dimensions at 20m intervals. Line drawings shall be tested and should be marked on the road with chalk to ensure the survey drawing resembles on site conditions. The Consultant shall monitor the on-site markings and review the design as per site conditions.

#### **ii. Conceptual designs**

The Consultant shall prepare detailed street designs for all streets in the Study Area. The design must be consistent with relevant plans, including plans for mass transit networks, multi-modal integration, cycling networks, pedestrian networks, and pedestrian zones. The designs shall be

prepared following relevant Street Design Manual for Urban Areas in Kenya, April 2019 guidelines for Pedestrian Facilities. These designs shall be presented in 3D model clearly showing the existing and proposed pedestrian network.

### iii. Street Design

Street designs should include but are not limited to the following elements:

- Dedicated pedestrian walkways.
- Dedicated cycle tracks (if the corridor falls on the cycle priority network).
- Pedestrian crossings, including formal speed table crossings as well as median breaks that serve as informal crossing locations.
- Trees of native species to provide shade for pedestrians and cyclists as well as decorative landscaping, including compensatory afforestation for the trees removed as part of the project.
- Bus stops and transit stops.
- Spaces for street vending.
- Medians.
- Traffic calming elements, where needed to reduce vehicle speeds.
- Physically demarcated on-street parking areas.
- Street furniture, including benches, stools, tables, and other seating arrangements.
- Signage locations.
- Bollards.
- Pedestrian refuge islands.
- Carriageways, ensuring that the width remains uniform between intersections.
- Street lighting.
- Drainage works.
- Utility access points.
- The consultant is encouraged to come up with interesting concepts and themes for the streets that correspond to the character identified for that neighbourhood.

### iv. Intersection design

Intersection designs should promote pedestrian safety through elements such as pedestrian refuge islands, reduced angles of approach, reduced turning radii, and traffic calming. The design of pedestrian crossings at intersections and in mid-block locations should ensure that pedestrians do not need to cross more than 2 lanes at a time. Where extra RoW is available, the Consultant should identify opportunities to improve and/or create plazas, markets, and other public spaces. With support from KURA, the Consultant is expected to discuss on existing and proposed arrangements/shifting of the utilities above and underground with concerned departments during the preparation of conceptual drawings. The Consultant will submit a plan drawing as well as cross-sections at every 50m. The plans will be submitted in hard copy and electronic format. It must include at least two 3D renderings and photomontages of the design proposal.

### v. Draft Conceptual Designs

The draft conceptual designs will be evaluated through presentations to KURA and public stakeholders. 3D models of the current, proposed and integrated pedestrian networks shall be presented.

### vi. Final Conceptual Designs

The Consultant will prepare Revised Conceptual Designs based on the feedback received from the KURA and stakeholders. The Revised Conceptual Design must be submitted to KURA for approval.

### vii. Draft working drawings

Following approval by KURA of the conceptual designs, the Consultant will prepare detailed construction drawings for the Study Area. The designs should include geometric and vertical profiles and **should incorporate drainage designs** (see below). The designs should include the following components:

- Typical sections at every 50m.
- Street plan.
- List of existing street elements to be demolished.



- Proposed, retained and relocated underground and over ground utility location plans.
- Utility relocation plans (wherever necessary).
- Materials as per Clients specifications.
- Construction details for each element.
- The Draft Working Drawings must be submitted to the Client for approval.

#### viii. Final Working Drawings

The Consultant will prepare Final Working Drawings based on the feedback received from the Client. The Final Working Drawings must be submitted to KURA for approval. The Consultant will submit all conceptual designs and final working drawings to KURA in hard copy and electronic format (DWG format).

#### C. Bill of quantities

The Consultant is expected to prepare specifications, bills of quantities, cost estimates, and bid documents for the implementation of the proposed street improvements, including pavements, furniture, street lighting, landscaping and other components. Bid documents shall be given item-wise (i.e. Streets, lighting, landscaping, road markings, etc.). The Consultant will work with KURA to include appropriate mechanisms in the bid documents to facilitate long-term maintenance, such as Performance -based contracting of contractors.

#### D. Preparation of Tender documents for Construction and Maintenance

The Consultants will be required to prepare documentation for the construction of the identified network.

#### E. Public/Stakeholder Consultation

The consultant shall conduct regular and continuous public/stakeholder consultation to get inputs from them and shall make all necessary efforts to include their feedback in the design. The key stakeholders are including but not limited to;

- Kenya National Highway Authority (KeNHA), as they do major road networks.
- County Government of Mombasa.
- Kenya Ports Authority (KPA).
- Kenya Police Service.
- Motorists and pedestrian.
- Cyclists.
- Matatu SACCOS Associations.
- Mombasa Residents and community at large.
- Ministry of Land.
- Ministry of Environment and Forestry (greening).
- Resident Welfare Associations,
- Vendors Association,
- Civic Associations,
- Educational Institutions etc.

#### F. Socio-economic and Environmental Study

The Consultant shall conduct analyses, which shall detail the positive and negative effects of the development of the project on the environment and the community, and recommend appropriate solutions to minimize any undesirable effects resulting from improvements of the road. The study shall be conducted in accordance with Client guidelines and the Environmental Management and Coordination Act of 1999 schedule II including the EIA and Audit Regulations of 2003.

The analyses shall include, but not limited to the following factors:

- a) The role of the project in the development plans at national and regional level;
- b) Preservation of areas and land use of particular value including agricultural and natural conservation areas, forests and other important natural resources, cultural and historic sites, etc.;
- c) Assessment of direct impact on agriculture and forestry, particularly the utilization of the fuel wood and water;
- d) Disturbance of vegetation plans for re-vegetation and conservation of biodiversity.
- e) The prevention of soil erosion and sedimentation;

- f) The prevention of health hazards arising from ponding water and pollution of water courses and/or sources;
- g) Measures for the rehabilitation of sources of construction materials, borrow pits and quarries;
- h) Health and sanitation for the road construction labour units;
- i) The avoidance of and reduction of visual intrusion; and
- j) Assessment of the impact on demographic factors including the prevention of undesirable roadside developments, and recommended regulations and measures to limit negative impact on adjacent communities and areas.

#### **4.0 TEAM COMPOSITION AND QUALIFICATION REQUIREMENTS**

##### **4.1. Staff Requirements**

The Consultant shall provide the following staff required for the performance of the duties described above:

The profiles of the key experts to be provided by the Consultant for this assignment are as follows:

##### **Key expert 1: Project Director**

###### ***Qualifications and skills***

Must possess University Degree Master In Planning/ Urban Design/ Architecture or equivalent and be registered with relevant professional body or equivalent.

###### ***General professional experience***

A minimum of 15 Years of experience in Field of Urban Design/ Planning

###### ***Specific professional experience***

Must have extensive broad experience in preparation of masterplans for urban areas and more specifically have recent service as a Project Director/Project Manager on at least one major urban masterplan preparation contract of comparable magnitude.

##### **Key expert 2: Materials Engineer**

###### ***Qualifications and Skills***

Must possess University Degree BSc (Civil Engineering) or equivalent and be a full member with the Engineers Board of Kenya or

###### ***General professional experience***

A minimum of 8 Years of experience in Relevant Field

###### ***Specific professional experience***

At least 8 years of recent experience in materials of a project.

##### **Key expert 3: Electrical Engineer**

###### ***Qualifications and Skills***

Must possess University Degree BSc (Electrical Engineering ) or equivalent and be a full member with the Engineers Board of Kenya.

###### ***General professional experience***

A minimum of 8 years practical post-qualification experience in electrical engineering works for road projects or masterplan projects

###### ***Specific professional experience***

At least 8 years of recent experience electrical engineering works for road projects or masterplan projects Experience on projects in East Africa will be an advantage.

#### **Key expert 4: Architect/Urban Designer**

##### ***Qualifications and skills***

Must possess University Professional Civil Engineer/Architect. In addition shall possess Master's degree in Urban Planning/Designing.

##### ***General professional experience***

A minimum of 8 years in consultancy and advisory assignments in urban transport planning / NMT planning/Public transport planning

##### ***Specific professional experience***

Must have relevant experienced in urban transport planning. Previous experience on mapping of in East Africa will be an advantage.

#### **Key expert 5: Urban Highway Design Engineer**

##### ***Qualifications and skills***

Must possess university degree (Bsc Civil Engineering) and Professional Civil Engineer registered with Engineer's Board of Kenya

##### ***General professional experience***

A minimum of 8 years in designing roads in East Africa.

##### ***Specific professional experience***

8 Years of experience in designing urban roads.

#### **Key expert 6: Transport Planner / Engineer**

##### ***Qualifications and skills***

Must possess university degree (Bsc Civil Engineering) or equivalent and Masters in Planning/Masters of Engineering in Traffic and Transport Eng or equivalent.

##### ***General professional experience***

A minimum of 8 years 8 Years of experience in Relevant Field

##### ***Specific professional experience***

Minimum 6 Years of experience in urban transportation planning in East Africa

#### **Key expert 7: Landscape Specialist**

##### ***Qualifications and skills***

Must possess university degree (Architecture/Land scape Architect) or equivalent . Registered Landscape Architecture by Relevant Body

##### ***General professional experience***

A minimum of 8 years designing urban spaces

##### ***Specific professional experience***

Minimum 6 Years of experience years designing urban spaces in East Africa.

#### **Key expert 8: Land Surveyor**

##### ***Qualifications and skills***

Must possess university degree (Bsc GIS/ Surveying) or equivalent . Registered surveyor/GIS specialist with relevant body

##### ***General professional experience***

A minimum of 5 Years of experience in relevant field

##### ***Specific professional experience***

Minimum 5 Years of experience in GIS remote sensing, topographical survey. In urban spaces

#### **Key expert 9: Sociologist/Environmental**

##### ***Qualifications and skills***

Must possess university degree Graduate In Social Work/Sociology/Environment Studies. Registered professional with with relevant body

##### ***General professional experience***

A minimum of 8 Years of experience in relevant field

##### ***Specific professional experience***

Minimum 5 Years of experience in conducting ESIA's and RAP's in urban spaces

## **Key expert 10: Structural / Drainage Engineer**

### ***Qualifications and skills***

Must possess university degree (Bsc Civil Engineering.) Professional Civil /Structural Engineer Registered professional with relevant body

### ***General professional experience***

A minimum of 8 Years of experience in relevant field

### ***Specific professional experience***

Minimum 5 Years of experience in conducting urban drainage design and road structural designs in urban areas.

## **4.2 WORK SCHEDULE**

The consultant shall propose a schedule of activities and corresponding deployment of manpower, which will ensure that all duties entrusted to him/her, will be adequately performed. This schedule, together with a comprehensive statement justifying the proposed deployment will be incorporated in the methodology statement.

## **5. REPORTING REQUIREMENTS AND TIME SCHEDULE FOR DELIVERABLES**

### **5.1 Commencement**

5.1.1 The Consultant shall commence the study as specified in Clause 13.1 of Section 8 (Special Conditions of Contract).

### **5.2 Reports**

5.2.1 The Consultant shall prepare and submit to the Director (URP&D) the following reports. All reports shall be in English and prepared on A4 metric size paper:

### **NMT Masterplan & preliminary & detailed Engineering design**

#### **a) Inception Report: 3weeks – 5 copies**

This shall summarize initial findings covering the mapping of existing and proposed transport and urban development plans, landmarks and land uses and detailed work The Inception Report for an NMT (Non-Motorized Transport) masterplan study shall serve as a foundational document that set out the framework, methodology, and roadmap for the study. Outlining the study's initial findings, key objectives, timelines, and any preliminary insights based on initial data collection. Key outputs shall include the following:

#### **1. Introduction and Background**

**Study Rationale:** Explanation of why the NMT masterplan study is being conducted, including the need for improved non-motorized transport infrastructure.

**Objectives of the Study:** Clear goals, such as enhancing accessibility, safety, and sustainability for pedestrians and cyclists.

**Scope and Coverage:** Definition of the geographic and thematic scope of the study, detailing the areas, zones, or specific routes that will be covered.

#### **2. Preliminary Review of Existing Conditions**

**Baseline Analysis:** Initial overview of the current state of NMT infrastructure, including sidewalks, bike lanes, and crossings.

**Policy and Institutional Context:** Summary of existing policies, plans, and institutional frameworks related to NMT at the local, regional, or national levels.

**Key Challenges Identified:** Early identification of main issues affecting NMT, such as lack of infrastructure, safety concerns, or traffic congestion.

#### **3. Methodology and Approach**

**Data Collection Plan:** Outline of the methods for gathering data, including surveys, traffic counts, GIS mapping, and public consultations.

**Analytical Framework:** Explanation of the approach for analyzing data, such as demand analysis, gap analysis, and safety assessments.

**Stakeholder Engagement Strategy:** Plan for engaging stakeholders, including public consultations, workshops, and meetings with local authorities and community groups.

#### 4. Work Plan and Timeline

**Phased Project Timeline:** A breakdown of project with estimated completion dates for each.

**Milestones and Deliverables:** List of key milestones and deliverables expected at each stage.

**Resource Allocation:** Overview of resources needed, including personnel, equipment, and any logistical support.

#### 5. Roles and Responsibilities

**Project Team Structure:** Overview of the team involved, including roles and responsibilities for project managers, engineers, data analysts, and any external consultants.

**Stakeholder Roles:** Identification of key stakeholders (e.g., county government of Mombasa, KeNHA, KERRA, Matatu Saccos, KPA, Kenya Forest, community groups) and their roles in the study.

#### 6. Risk Assessment and Mitigation Measures

**Identification of Key Risks:** Potential risks such as data access issues, stakeholder resistance, or weather-related delays.

**Mitigation Strategies:** Proposed approaches to address risks, like contingency plans for data collection or alternative engagement methods if in-person meetings are not possible.

#### 7. Preliminary Insights and Observations

**Early Findings:** Initial insights based on any preliminary data gathered, highlighting areas that need attention in the detailed study phase.

**Opportunities and Constraints:** Identification of potential opportunities (e.g., supportive local policies) and constraints (e.g., budget limits, spatial challenges).

#### 8. Expected Outcomes and Impact

**Anticipated Benefits:** Outline of the expected benefits of the NMT masterplan, such as improved safety, reduced traffic congestion, or enhanced quality of life.

**Long-term Vision:** Brief description of the vision for NMT in the city, aligning with broader goals like sustainability, livability, and accessibility.

#### 9. Reporting and Communication Plan

**Report Submission Schedule:** Timeline for submission of interim reports up to final reports.

**Communication Strategy:** Plan for communicating progress and findings to stakeholders and the public, including use of updates, presentations, and public meetings.

#### 10. Budget Plan

**Estimated Budget:** Breakdown of the estimated costs for each phase of the study, covering personnel, materials, data collection, and other logistical expenses.

The consultant shall furnish KURA with the Masterplan for conducting the study. – 10 hard copies and two softcopies for the client.

#### b) **Progress Reports–6 copies:**

These shall be prepared at monthly intervals after commencement date, and shall detail all work performed during the reporting period. They shall contain advanced conclusions based on the analyses substantially completed, and shall also identify actual and anticipated difficulties and delays in the work, their causes, and the remedies proposed to solve them.

#### c) **Submission of Needs Assessment Report (10 Weeks): 5 copies**

The report shall highlight findings on the following

- i. Establish a baseline for current cycling and pedestrian movement and infrastructure in Mombasa City.
- ii. Evaluation of current plans and policies for NMT and identification of potential constraints and opportunities.
- iii. Evaluation of bike support infrastructure in order to encourage people to take up bicycling as an alternate mode.
- iv. Identification and finalizing the types of surveys and locations. 3 days Condition surveys and preliminary traffic surveys should be undertaken.

A Needs Assessment Report in the context of a Non-Motorized Transport (NMT) masterplan study aims to identify gaps, challenges, and opportunities in the current infrastructure and policies related to walking, cycling, and other forms of NMT. The outputs from such a report provide a foundation for designing the masterplan. Here are the key outputs expected:

#### 1. Current NMT Infrastructure Analysis

**Inventory of Existing NMT Infrastructure:** A detailed account of current pedestrian paths, cycling lanes, sidewalks, and crossings.

**Condition Assessment:** Evaluation of the quality, safety, and accessibility of the existing infrastructure.

**Gaps in Connectivity:** Identification of areas where infrastructure is missing or insufficient to meet NMT demand.

#### 2. NMT Demand Analysis

**Travel Behaviours and Patterns:** Data on the current usage of walking and cycling in different parts of the city, including trip frequencies, lengths, and purposes (commuting, recreation, etc.).

**User Profiles:** Insights into the demographics of NMT users (age, gender, income level) and their specific needs.

**Peak Usage Times and Areas:** Identification of zones with high pedestrian and cyclist traffic, especially near schools, markets, and transit hubs.

#### 3. Safety and Risk Assessment

**Accident Data:** Analysis of pedestrian and cyclist accident data to identify high-risk areas and key safety issues.

**Conflict Zones:** Mapping of locations where motorized traffic frequently conflicts with NMT users (e.g., dangerous intersections, lack of pedestrian crossings).

**Perception of Safety:** Survey results or public feedback on how safe people feel while walking or cycling in the city.

#### 4. Accessibility and Inclusion Assessment

**Barriers to Mobility:** Identification of physical barriers (e.g., narrow sidewalks, lack of ramps) that impede mobility for vulnerable groups such as the elderly, people with disabilities, and children.

**Equity in NMT Infrastructure Distribution:** Assessment of whether low-income and underserved areas have adequate access to NMT infrastructure.

**Universal Design Needs:** Analysis of the city's compliance with universal design principles to ensure accessibility for all users.

#### 5. Public and Stakeholder Feedback

**Survey Results:** Findings from public opinion surveys or interviews on the existing state of NMT infrastructure and desired improvements.

**Workshops and Consultation Meetings:** Summary of key insights from consultations with stakeholders, including city officials, community organizations, and NMT advocacy groups.

**User Needs and Preferences:** Specific needs articulated by different groups, such as requests for safer cycling lanes, better street lighting, or more pedestrian-friendly crossings.

#### 6. Policy and Institutional Review

**Existing Policy Review:** Evaluation of current policies, regulations, and plans related to NMT at the local, regional, or national levels.

**Institutional Capacity Assessment:** Analysis of the capabilities of local institutions and authorities to plan, implement, and maintain NMT projects.

**Regulatory Gaps:** Identification of any legal or regulatory gaps that hinder the development or promotion of NMT (e.g., lack of policies supporting cycling lanes).

#### d) NMT Masterplan Report (20 Weeks) 5 Copies

In a Non-Motorized Transport (NMT) masterplan study for a city, the outputs shall typically provide tangible,

actionable frameworks and recommendations aimed at improving walking, cycling, and other non-motorized forms of transportation. Below are the key outputs expected from this study:

#### 1. NMT Infrastructure Assessment

**Mapping of Existing NMT Infrastructure:** A detailed GIS-based map highlighting current pedestrian pathways, cycling lanes, and shared spaces.

**Condition and Quality Reports:** Assessment of the physical state of current NMT infrastructure (sidewalks, bike lanes, crosswalks, etc.).

**Gap Analysis:** Identification of areas lacking NMT infrastructure and opportunities for improvement.

#### 2. Proposed NMT Network

**Planned Pedestrian and Bicycle Routes:** A comprehensive layout of new or improved NMT routes across the city.

**Hierarchical Network Plan:** Classification of routes into primary, secondary, and tertiary NMT corridors to ensure cohesive connectivity across different zones.

**Greenways and Safe Routes:** Recommendations for establishing dedicated car-free streets, pedestrian zones, and cycling corridors.

#### 3. Design Standards and Guidelines

**NMT-Friendly Street Design:** Specifications for sidewalks, crosswalks, cycle tracks, bike parking, and other relevant urban infrastructure.

**Universal Accessibility Guidelines:** Design considerations for people with disabilities, children, and the elderly (ramps, tactile paths, etc.).

**Traffic Calming Measures:** Recommendations for slowing down motorized traffic in shared spaces to enhance safety for NMT users.

#### 4. Safety and Security Measures

**Accident Data Analysis and Hotspot Mapping:** Identification of areas with high incidents of pedestrian or cyclist accidents.

**Recommendations for Road Safety Interventions:** Proposals for pedestrian signals, speed bumps, improved crossings, lighting, and CCTV for safety.

**Public Awareness Campaigns:** Suggestions for educational programs to encourage safe walking and cycling practices.

#### 5. Land Use and Zoning Recommendations

**NMT-Compatible Urban Design:** Proposals for better integration of NMT in city planning, such as mixed-use development to reduce travel distances.

**Prioritized NMT Corridors:** Recommendations on high-traffic zones for pedestrian-only areas or bike-friendly districts.

**Transit-Oriented Development (TOD):** Enhancing NMT connections around public transport hubs.

#### 6. Policy and Regulatory Framework

**Draft NMT Policies:** Legal and policy recommendations for supporting and regulating NMT in the city.

**Parking and Vehicle Restriction Policies:** Proposals to reduce private vehicle dominance in central areas, including restricted car zones.

**Integration with Broader Urban Mobility Plans:** Ensuring NMT policies align with broader city mobility and environmental goals.

#### 7. Cost Estimates and Financial Plan

**Capital Investment Estimates:** Detailed budget projections for constructing new NMT infrastructure and upgrading existing facilities.

**Operational and Maintenance Costs:** A breakdown of long-term costs for maintaining NMT infrastructure.

**Funding and Financing Mechanisms:** Identification of potential funding sources (public, private, PPPs, donor agencies) for NMT projects.

#### 8. Phased Implementation Plan

**Short, Medium, and Long-term Goals:** Detailed implementation timelines, prioritizing quick-win projects and gradual roll-out.

**Milestones and Key Performance Indicators (KPIs):** Clear indicators to measure progress on infrastructure development, policy enactment, and public acceptance.

#### 9. Environmental and Social Impact Analysis

**Air Quality Improvement Projections:** Quantitative analysis of expected reductions in emissions due to

decreased motorized vehicle use.

**Public Health and Social Equity Benefits:** Assessment of how the NMT plan improves health outcomes, safety, and accessibility for vulnerable groups.

**Green Space and Public Realm Enhancements:** Proposals for more pedestrian-friendly public spaces, pocket parks, and tree-lined walkways.

#### 10. Stakeholder Engagement and Feedback Report

**Survey Results and Public Feedback:** Documentation of the public consultation process, including feedback from stakeholders, community groups, and NMT users.

**Workshops and Meetings Summaries:** A record of discussions with local government, government agencies, NGOs, transport authorities, and local businesses.

#### 11. Monitoring and Evaluation Framework

**Data Collection Strategy:** A framework for continuous monitoring of NMT use, safety incidents, and environmental impacts.

**Periodic Review Mechanisms:** Setting up systems for reviewing progress and adjusting the plan as necessary, based on ongoing feedback and real-world developments.

In the detailed design report for Non-Motorized Transport (NMT) infrastructure in urban areas, topographical survey outputs provide critical data that supports accurate planning and construction. These outputs inform the final alignment, grading, and layout of sidewalks, bike lanes, and other pedestrian and cycling infrastructure. Here are the typical topographical survey outputs included in an NMT detailed design report:

##### 1. Contour and Elevation Maps

**Detailed Contour Maps:** Maps showing elevation contours at specific intervals to give a clear representation of the terrain's slope and elevation changes.

**Elevation Profiles:** Profiles along proposed NMT routes to identify slopes, low-lying areas, and steep sections that may require grading or special treatments to ensure accessibility and user safety.

##### 2. Digital Terrain Models (DTM) and Digital Elevation Models (DEM)

**DTM and DEM Outputs:** 3D models of the ground surface for a comprehensive view of terrain features, allowing planners to optimize path alignments and grading.

**Slope Analysis:** Identification of slope gradients, indicating areas where leveling or retaining structures may be necessary to create accessible pathways.

##### 3. Existing Infrastructure and Utility Mapping

**Road and Pathway Locations:** Accurate locations of existing roads, sidewalks, pathways, and other transport infrastructure to aid in planning NMT routes that integrate seamlessly.

**Utility Locations:** Detailed mapping of utilities (e.g., water, sewer, gas, electrical, telecommunications) including both underground and overhead systems, so that NMT routes can be designed to avoid these or include necessary adjustments.

##### 4. Land Use and Property Boundaries

**Property Boundaries:** Exact property lines and rights-of-way to identify publicly accessible areas for NMT paths and avoid encroachment on private land.

**Land Use Patterns:** Land use and zoning details that indicate locations of residential, commercial, and industrial areas, helping to prioritize high-traffic or high-demand zones.

##### 5. Obstacles and Fixed Features

**Natural and Man-Made Obstacles:** Locations of trees, poles, fences, walls, and other obstacles that might need to be removed, relocated, or integrated into the design.

**Street Furniture and Fixtures:** Mapping of existing street furniture like benches, lampposts, signage, and trash bins, which could impact the layout or require relocation.



## 6. Cross-Sectional Road Profiles

**Existing Cross-Section Profiles:** Cross-sections of roads at key points, showing lane widths, medians, and curb heights to inform the integration of NMT facilities.

**Sidewalk and Curb Details:** Precise measurements of existing sidewalks, curb heights, and gutter locations to guide necessary adjustments or expansions for NMT infrastructure.

## 7. Drainage and Water Flow Patterns

**Drainage Pathways:** Natural drainage channels, stormwater outlets, and low-lying areas susceptible to water accumulation, to ensure proper drainage solutions for NMT paths.

**Flood-Prone Areas:** Identification of areas prone to flooding or poor drainage to avoid or mitigate waterlogging risks in NMT design.

## 8. Building Entrances, Driveways, and Access Points

**Access Points and Entrances:** Locations of building entrances, driveways, and access points that intersect with proposed NMT routes to avoid conflicts and ensure safety.

**Setback Compliance:** Measurement of building setbacks from the road to ensure compliance with regulatory standards and to allow sufficient space for NMT pathways.

## 9. Intersection and Crosswalk Details

**Intersection Layouts:** Mapping of intersection layouts and geometry, including signal placements, lane markings, and pedestrian crosswalks, to optimize NMT crossing points and safety.

**Crosswalk Locations:** Exact locations and dimensions of crosswalks and pedestrian crossings, as well as any associated safety features like pedestrian islands or refuge zones.

## 10. Environmental and Natural Features

**Tree and Vegetation Mapping:** Locations and types of trees, green spaces, and other vegetation to help preserve greenery, provide shade, and incorporate landscaping into the design.

**Water Bodies and Terrain Features:** Identification of rivers, streams, ponds, or slopes that may require protective features or bridge structures.

## 11. Survey Control Points and Benchmark Data

**Control Points:** Location of survey control points and benchmarks used during the survey, allowing future construction to align precisely with the survey data.

**Benchmark Elevations:** Elevation data from benchmarks to ensure consistent grading and elevation settings across the entire NMT network.

## 12. Final Topographical Survey Report and Data Files

**Survey Report:** A comprehensive report summarizing all survey findings, including identified challenges and recommendations based on the terrain data.

**Data Files and GIS Integration:** Digital survey data files compatible with GIS or CAD software to allow seamless integration into the NMT design process and further analysis.

These topographical survey outputs support the preliminary and detailed design phase by providing an accurate, data-driven foundation for planning, minimizing environmental impact, and ensuring that the proposed NMT infrastructure is safe, accessible, and effectively integrated within the urban landscape.

### e) Preliminary Engineering Design Report (30 Weeks) 5 COPIES

Shall be based on the identified quick wins projects (output from Stage II), the Preliminary Engineering Design Report shall be prepared.

- i. On finalization of the NMT network for the study area and approval of the same by the Client, the consultant shall carry out detailed Topographic Survey of the identified network for the purpose of designing and detailing.
- ii. 24hrs 7 days' traffic surveys be done in this phase.
- iii. NMT Plan: Planning and designing of the cycle tracks and pedestrian walkways as per global standards including allied infrastructure such as segregated/common cycle tracks, walkways, bicycle parking, and green parks that emulate Mama Nina Drive; depending on the land use pattern of the surrounding area and expected traffic on the facilities.

The design shall emphasize on

- a) Design Principles
- b) Network (users) requirements
- c) Design specifications
- d) Street Infrastructure Plan for NMT

The above components shall nonetheless include

- Reduction in number of conflicts faced by an NMT user
- Minimizing overall distance (or time) over which the pedestrian/cyclist must deal with potential conflicts
- Accessibility to bus stops and metro stations through easy and direct connections
- Personal comfort and security while waiting for public transport
- Based on land use and employment and work centres, direct, safe and well-connected routes for pedestrians and bicyclists
- Visibility of bicyclists such as designated bicycle lanes, road markings, street lighting, signalization at intersections, segregation from motorized traffic
  - i. Development of specifications for NMT components to be designed for NMT users as well as differently abled for safe and comfortable mobility on walkways by means of specific tiles, widths, obstruction free paths etc.
  - ii. Recommendations on street and intersection alignment and design changes to better accommodate NMT and disabled users.
  - iii. Detailed proposal for junctions with cross roads (including link roads) to avoid direct access to traffic to NMT facilities.
  - iv. Development of traffic calming methods and measures in order to segregate and safeguard the interests of the NMT user from the fast-moving motorized traffic.
  - v. Conceptual proposal for landscaping of the NMT routes in order to provide for comfortable journey.
  - vi. Typical drawings for road cross-sections, road signage's, road marking, street furniture and other allied infrastructure that facilitates NMT movement.

The preliminary design phase for Non-Motorized Transport (NMT) facilities in Mombasa cityscape shall involve conceptualizing and outlining of initial design solutions for pedestrian and cycling infrastructure. This stage is crucial as it provides a visual and functional foundation that can be refined in the detailed design phase. The expected outputs typically shall include the following:

#### 1. Preliminary Layout Plans

**Conceptual NMT Network Map:** Overview of proposed pedestrian and cycling routes, including connections to public transport hubs and key destinations.

**Alignment and Route Layout:** Initial route alignments for sidewalks, bike lanes, and shared paths, highlighting main corridors, secondary routes, and neighbourhood pathways.

**Integration with Existing Infrastructure:** Preliminary overlay showing integration with existing roads, transit stops, parks, and other urban features.

## 2. Cross-Section Drawings

**Typical Cross-Sections:** Proposed cross-sections for different types of NMT infrastructure, including sidewalks, bike lanes, shared paths, and mixed-use areas.

**Street Width Allocation:** Allocation of street width for NMT and vehicular lanes, considering necessary buffer zones and landscaping strips.

**Vertical Clearance and Accessibility:** Dimensions to ensure universal compliance, sufficient clearance for overhead obstacles, and ease of movement for all users.

## 3. Preliminary Intersection and Crossing Designs

**Intersection Layouts:** Initial designs for intersections, including NMT crossing points, bike boxes, and pedestrian refuges.

**Pedestrian and Cyclist Crossings:** Proposed locations and configurations of crosswalks, raised crossings, or signalized intersections for safe NMT movement.

**Traffic Calming Features:** Placement of traffic calming measures like speed bumps, curb extensions, and refuge islands at intersections.

## 4. Preliminary Grading and Slope Analysis

**Slope and Elevation Profiles:** Identification of areas where grading may be needed to ensure accessible and safe routes, especially in hilly terrain.

**Drainage Considerations:** Preliminary assessment of drainage needs to prevent water pooling on NMT pathways, including placement of slopes and drainage facilities.

## 5. Proposed Design Standards and Specifications

**Material Recommendations:** Suggested materials for surfaces (e.g., concrete, asphalt, permeable paving) suitable for pedestrian and cycling pathways.

**Lighting and Safety Features:** Initial specifications for street lighting, reflective markings, and other safety enhancements for night-time visibility.

**Universal Accessibility Features:** Elements like tactile paving, ramps, and curb cuts to ensure the NMT facilities are accessible for people with disabilities.

## 6. Landscape and Urban Design Features

**Street Furniture Placement:** Proposed locations for benches, trash bins, bike racks, and other amenities to enhance user experience.

**Green Infrastructure:** Preliminary landscaping features such as tree plantings, green buffers, and bioswales for stormwater management and shade.

**Public Spaces and Rest Areas:** Initial concepts for integrating small plazas, rest areas, and green spaces along NMT routes.

## 7. Safety and Wayfinding Elements

**Signage and Wayfinding:** Locations and designs for wayfinding signs, maps, and markings to help guide NMT users.

**Barriers and Guardrails:** Placement of safety barriers, bollards, or guardrails where needed to separate NMT users from vehicle traffic.

**Visibility Enhancements:** Design features like reflective paints or signage for high-traffic areas or areas with limited visibility.

## 8. Preliminary Cost Estimate

**Estimated Budget:** An outline of anticipated costs based on preliminary design features, covering infrastructure, materials, and landscaping.

**Phasing and Prioritization:** A high-level approach for phasing construction in priority areas and estimated costs for each phase.

## 9. Preliminary Environmental and Social Impact Assessment

**Environmental Impacts:** Identification of any significant environmental impacts, such as tree removal, habitat disruption, or stormwater issues.

**Social and Accessibility Impacts:** Evaluation of the preliminary design's impact on local communities, accessibility for diverse users, and pedestrian safety.

## 10. Stakeholder and Community Feedback Summary

**Consultation Outcomes:** Summary of feedback received from initial consultations with local

authorities, community groups, and potential NMT users.

**Design Adjustments Based on Feedback:** Preliminary design adjustments or considerations based on stakeholder input.

#### 11. Preliminary Phasing and Implementation Plan

**Phased Construction Timeline:** Conceptual timeline for rolling out the NMT facilities, broken into manageable phases.

**Initial Site Prioritization:** Identification of priority sites or high-demand areas for early phases of construction.

These outputs provide a comprehensive yet flexible framework for further refinement in the detailed design phase, ensuring the NMT infrastructure meets safety, accessibility, and connectivity goals across the cityscape.

#### f) **Draft Detailed Engineering Report (44 Weeks) -5 Copies**

On finalization of the NMT network and the typical details for NMT in the study area and approval by the Client as per the preliminary design report, the consultant shall prepare draft final detailed design for NMT network. This shall include:

- i. Design for the NMT network in the form of GADs based on the topographic survey of the identified network.
- ii. Detailed proposal for road signage, road markings, road furniture and safety devices on the network that improves NMT usage.
- iii. 3D Models of the integrated NMT network.
- iv. Cost estimation of all the components and preparation of BOQ,

The studies, surveys, investigations, proposals and reports shall be based on relevant provision of Kenyan Standards, Codes and Special Publications (with latest amendments); and other specifications/ circulars/ guidelines (till date). In case, any such codes/best practices are not available or appropriate at national level, reference shall be made to best European standards such as the UK and the Netherlands NMT design standards.

#### g) **Final Detailed Engineering Report (52 Weeks) 5 Copies**

The report must generally incorporate comments generated from the presentation of the Draft Detailed Engineering Report as well as comments from the Client's Technical Team.

The environmental and social impact assessment reports, shall be packaged as separate volumes.

The detailed design phase for Non-Motorized Transport (NMT) infrastructure in urban areas involves refining and specifying the preliminary design with precise technical details, ensuring the proposed facilities are safe, accessible, durable, and well-integrated with the urban environment. Key outputs of a detailed NMT designs shall include the following:

##### 1. Detailed Layout Plans

**Final Route Alignment:** Precise route alignments for sidewalks, bike lanes, and shared pathways, specifying exact locations, widths, and connections to public transport and key urban destinations.

**Spatial Mapping:** Scaled maps showing the final layout of NMT infrastructure in relation to existing roads, intersections, transit hubs, and public spaces.

**Connections to Major Landmarks and Destinations:** Clearly mapped access points to schools, workplaces, parks, and commercial centers, ensuring seamless integration with important destinations.

##### 2. Cross-Section and Profile Drawings

**Standardized Cross-Sections:** Detailed cross-sections for each type of pathway (e.g., shared paths, bike lanes, sidewalks), with specifications for lane width, buffer zones, and vertical clearance.

**Roadway Profiles and Elevations:** Precise profiles showing elevation changes, grades, and slopes, ensuring universal accessibility standards.

**Edge and Boundary Treatments:** Details on edge treatments, curbing, and boundary features to ensure pedestrian and cyclist safety, especially near traffic zones.

##### 3. Intersection and Crossing Designs

**Intersection and Crossing Plans:** Detailed designs for intersections, crosswalks, and bike crossings,

showing traffic signal integration, markings, pedestrian refuges, and tactile pavings.

**Traffic Calming Features:** Location and dimensions of traffic-calming measures like speed tables, curb extensions, and pedestrian islands, to enhance user safety at intersections and crossings.

**Signalization Details:** Placement and specifications for traffic signals and pedestrian-activated signals, including timings optimized for safe pedestrian and cyclist crossing.

#### 4. Detailed Grading and Drainage Plans

**Grading Plans:** Final grading and leveling details to ensure pathways are smooth and accessible, with appropriate slopes to prevent water pooling.

**Drainage Infrastructure:** Design of drainage solutions, including gutters, culverts, bioswales, and stormwater outlets to manage runoff and prevent flooding along NMT routes.

**Surface Drainage Paths:** Detailed layouts showing surface water flow and placement of inlets to maintain dry, safe pathways.

#### 5. Materials and Specifications

**Surface Materials and Finishes:** Detailed specifications for paving materials (e.g., asphalt, concrete, permeable pavers) that balance durability, maintenance, and user comfort.

**Safety and Accessibility Features:** Specifications for tactile paving, ramps, curb cuts, and other accessibility elements ensuring compliance with universal design standards.

**Durability and Maintenance Considerations:** Selection of materials with weather resilience, low maintenance needs, and cost-effectiveness, including details on sealing, anti-slip coatings, and reflective surfaces.

#### 6. Landscape and Urban Design Elements

**Green Infrastructure Plans:** Detailed landscaping elements like tree planting, bioswales, and rain gardens that provide shade, enhance aesthetics, and manage stormwater.

**Street Furniture Placement:** Precise locations and specifications for benches, trash bins, bike racks, and other amenities to enhance comfort and usability.

**Shade and Shelter Designs:** Designs for shade structures, covered seating, or bus shelters where appropriate to increase user comfort.

#### 7. Lighting and Visibility Enhancements

**Street and Path Lighting Design:** Placement and specifications for streetlights, pathway lights, and motion-activated lights to ensure safe visibility for night-time use.

**High-Visibility Markings:** Specifications for reflective markings, signage, and delineators to enhance safety, especially at crossings and intersections.

**Wayfinding Signage:** Final design and placement of directional signs, maps, and information boards to help users navigate the NMT network.

#### 8. Safety and Security Features

**Barriers and Guardrails:** Location and design of protective barriers, guardrails, and bollards where NMT paths are close to high-speed vehicular traffic.

**Emergency and Surveillance Systems:** Placement of emergency call boxes or cameras along the network in high-traffic or remote areas to enhance security.

**Safe Zones and Pull-Off Areas:** Designated pull-off areas or widened zones for resting, safe refuge, or waiting at intersections.

#### 9. Utility Coordination and Adjustments

**Utility Relocations:** Plans for relocation or adjustment of existing utilities (e.g., electrical, telecommunications, water) that may interfere with NMT pathways.

**Underground Utility Protection:** Measures to protect underground utilities, ensuring they are not impacted by excavation or pathway installation.

**Overhead Utility Clearance:** Specifications to maintain required vertical clearance from overhead lines, streetlights, and signage.

#### 10. Cost Estimates and Bill of Quantities (BoQ)

**Detailed Cost Breakdown:** Comprehensive cost estimate for each aspect of the design, including materials, labor, equipment, and contingency funds.

**Bill of Quantities:** Detailed BoQ outlining quantities of materials, components, and units for each design element, serving as a basis for construction procurement.

### 11. Environmental Impact Mitigation Plan

**Mitigation Measures:** Detailed plan for minimizing environmental impact, including tree preservation, erosion control, and habitat protection measures.

**Noise and Dust Management:** Specifications for managing noise and dust during construction, especially in residential or ecologically sensitive areas.

**Sustainability Features:** Incorporation of sustainable practices, such as using recycled materials, minimizing carbon footprint, and enhancing green spaces.

### 12. Implementation and Phasing Plan

**Construction Phasing Plan:** A phased approach for implementing the NMT infrastructure, prioritizing high-impact or high-traffic areas.

**Timeline and Milestones:** Timeline with milestones for each construction phase, ensuring coordinated, timely completion.

**Access Management During Construction:** Plans for temporary pathways or diversions to maintain access for pedestrians and cyclists during construction.

### 13. Finalized Design and Approval Drawings

**Construction Drawings:** Detailed, approved drawings ready for construction, including all specifications for contractors to follow.

**Permitting and Compliance Documents:** Necessary documentation for regulatory approval, including environmental permits, traffic permits, and compliance certificates.

**A certificate shall be issued after the Supervision team certifies that the consultant has fulfilled his contractual obligation.**

**Schedule I: Proposed Time Schedule for the Survey**

ACTIVITY	MONTHS								
	M 1	M 2	..Mn	M(n+1)	M(n+2)	M(n+3)	M(n+4)	M(n+5)	M(n+6)
Inception Report									
Comments KURA									
Needs Assessment Report									
Comments by KURA									
NMT Masterplan Report Comments by KURA									
Preliminary Design Report Comments by KURA									
Draft Engineering Design Comments by KURA									
Final Engineering Design Comments by KURA									

**5.2.2 Records of Documents**

After delivery of all final documentation, the originals of the following documents are to be deposited with the Team Leader, KURA Technical Team;

- i) All drawings, both full size and photo-reduced, inclusive of land acquisition drawings, all in transparent material.
- ii) Tabulated test result of the materials investigations and any interpretation therefrom inclusive of materials charts
- iii) Earthworks computations inclusive of mass-haul diagram
- iv) Structural calculations
- v) Hydrological and water way calculations
- vi) Setting out data and earthworks computation on CD ROM.

### **5.3 Time Schedule**

Shall be completed and forwarded to the Team Leader, KURA Technical Team within twelve (12) months of the commencement of the assignment. The Consultant should be prepared to attend meetings with the Client to discuss the assignment at any stage

The Consultant should be prepared to attend meetings with the Client to discuss the assignment at any stage.

### **5.4 Lateness in reporting**

Where a report required is delayed beyond the stipulated time for submission, the consultant shall:

- Provide to the Client an explanation satisfactory to the Client for the delay in submission and the remedial measures to be undertaken.

## **6.0 OBLIGATION OF KENYA URBAN ROADS AUTHORITY**

### **6.1 Documents and Reports**

6.1.1 The Client will supply all pertinent data and information in its possession and give such assistance as shall reasonably be required for the conduct by the Consultant of his duties under this contract save that such assistance shall not be extended to the provision of any supplies or services. The Consultant will be required to pay for purchase fee of maps, manuals and other documents.

The following will on request be supplied by the Team Leader, KURA Technical Team to the Consultant who will be awarded the consultancy: -

- i) Standard specifications for Road and Bridge Construction 1986
- ii) Road Design Manual Part I – Geometric Design of Rural Roads 1979
- iii) Road Design Manual Part III – Pavement design and Materials 1987
- iv) Sample standard drawings
- v) Street Design Manual for Urban Areas in Kenya 2019(Draft)

*Please note that appropriate charges will be levied for certain documents.*

6.1.2 The Client will:

- (i) Ensure free access to all sites and locations connected with the execution of the study;
- (ii) Provide the Consultant with any assistance as the Consultant may be entitled to in accordance with the Terms of Reference
- (iii) Provide the Consultant with all documents, data, any existing photographs and other information pertaining to the study that are available with the Government; and
- (iv) Provide, at their option, counterpart personnel for on-the-job training with the consultant.
- (v) Facilitate the issuance of work permits and entry visas for the Consultant's expatriate staff.

6.1.3 In particular, the Government shall provide the following;

- (i) All data and reports pertaining to the design studies that have been carried out for the road under study if any;
- (ii) Available data and information on road inventory and traffic counts;
- (iii) Recent road construction and maintenance costs; and
- (iv) Unhindered access to pertinent data.



## **6.2 Liaison**

6.2.1 The Project Technical Team shall provide liaison with other Ministries and Departments in order to introduce the Consultant to them. The Consultant shall be fully responsible for collecting data and information from these agencies, including paying for it where necessary. The Consultant shall be fully responsible for collecting data and information from Government agencies, paying for it where necessary.

## **6.3 Taxes and Duties**

The Consultant shall be liable to pay all duties and taxes in connection with this assignment including VAT and other taxable payable under the laws of Kenya. No tax or duty exemption shall be given to the Consultant. The Consultant shall be deemed to have taken the above into consideration while preparing his financial proposal.

## **6.4 Correspondence**

6.4.1 The Client shall ensure that correspondence exchange in respect of the implementation of the study is treated promptly by the agency in order to avoid any delay. Correspondence by e-mail shall be on Microsoft Outlook (for Client).

## **6.5 Consultant's Obligations**

6.5.1 All information, data and reports obtained from the Client in the execution of the services of the Consultant shall be properly reviewed and analysed by the Consultant. The responsibility for the correctness of using such data shall rest with the Consultant. All such information, data, and reports shall be treated as confidential and returned to the Client upon completion of the assignment.

6.5.2 The consultant shall be responsible for analyses, interpretation, and conclusion made from the data and information provided by the client.

6.5.3 The Consultant shall be responsible for arranging for all necessary office and living accommodation, transportation, equipment and supplies, surveys, investigations, materials testing, secretarial services, related to the performance of the works.

6.5.4 The Consultant shall be responsible for the printing of all reports, drawings, maps, etc.

6.5.5 The Consultant shall provide a training plan for any counterpart personnel as approved by the Client.

6.5.6 All reports and documents relevant to the project, maps, field survey notes, computer programs and electronic data, etc. shall become the property of the Client. The Consultant shall provide the originals of maps, plans and all drawings with final tender documents both in hard and soft copies in CD ROMs and in acceptable electronic format.

**CONTRACT FOR CONSULTANT'S SERVICES**

Lump-Sum Contract Consulting Services for: **CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORIZED (NMT) MASTERPLAN PRELIMINARY & DETAILED ENGINEERING DESIGN FOR MOMBASA CITY**

Contract No.: KURA/RMLF/HQ/399/2024-2025

Contract Description: **CONSULTANCY SERVICES FOR PREPARATION OF NON-MOTORIZED (NMT) MASTERPLAN PRELIMINARY & DETAILED ENGINEERING DESIGN FOR MOMBASA CITY**

\_\_\_\_\_

Between

\_\_\_\_\_ *[Name of the Procuring Entity]*

and

\_\_\_\_\_ *[Name of the Consultant]*

Date:

**I. FORM OF CONTRACT - LUMP-SUM**

This CONTRACT (herein after called the “Contract”) is made the ..... 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]

[full name of Authorized Representative of the Procuring Entity]\_\_\_\_\_

[title]\_\_\_\_\_

[signature]\_\_\_\_\_

[date]\_\_\_\_\_

For and on behalf of..... *[Name of Consultant or Name of a Joint Venture]* *[full name of Consultant's*

*authorized representative]* \_\_\_\_\_

*[title]* \_\_\_\_\_

*[signature]* \_\_\_\_\_

*[date]* \_\_\_\_\_

*[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]* \_\_\_\_\_

*[signature]* \_\_\_\_\_

*[date]* \_\_\_\_\_

*[Add signature blocks for each member if all are signing]*

## SECTION 7: GENERAL CONDITIONS OF CONTRACT

### A. General Provisions

#### 1. Definitions

- a) Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- b) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
- c) “Consultant” means a legally established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
- d) “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).
- e) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the selected Consultant.
- f) “Day” means a working day unless indicated otherwise.
- g) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- h) “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.
- i) “Foreign Currency” means any currency other than the currency of Kenya.
- j) “GCC” means these General Conditions of Contract.
- k) “Government” means the government of Kenya.
- l) “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 any and 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.
- m) “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 taken into account in the technical evaluation of the Consultant's proposal.
- n) “Local Currency” means the Kenya Shillings, the currency of Kenya.
- o) “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.
- p) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
- q) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- r) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- s) “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.

- (t) “Third Party” means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

## **2. Relationship between the Parties**

- 2.1 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.

## **3. Law Governing Contract**

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

## **4. Language**

- 4.1 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.

## **5. Headings**

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

## **6. 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 them ember 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 a gents 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 by the PPRA.

## **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 effectiveness 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 period after the Effective Date as specified in the SCC.

### **15 Entire Agreement**

15.1 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.

### **16 Modifications or Variations**

16.1 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.

### **17 Force Majeure**

#### **a. Definition**

17.1 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.

17.2 Force Majeure shall not include (i) any event which is 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 here under.

17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required here under.

#### **b. No Breach of Contract**

17.4 The failure of a Party to fulfill any of its obligations here under 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**

- 17.5 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.
- 17.6 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 as a result of Force Majeure.
  - b) During the period of their inability to perform the Services as a result 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 in to liquidation or receivership whether compulsory or voluntary;
  - c If the Consultant fails to comply with any final decision reached as a result 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 GCC45.1within forty-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 as a result 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 at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

- 20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-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 shall comply with the import of goods and services prohibitions in Kenya when
- a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
  - b by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.
- 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 GCC 21.1.3, 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, works 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 in the course of, or because of, the Services.

## **23 Liability of the Consultant**

- 23.1 Subject to additional provisions, if any, set forth 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.
- 25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the PPRA and/ or persons appointed by the PPRA to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Consultant's attention is drawn to Clause GCC10 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights provided for under this ClauseGCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the PPRA's prevailing sanctions procedures.)

## **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 misconduct or has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert or 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**

##### **32 Assistance and Exemptions**

- 31.1 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.

- 32.2 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 in to 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.
- 32.3 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**

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

40.1 Any payment under this Contract shall be made in the currency (ies) of the Contract.

## **41 Mode of Billing and Payment**

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

41.2 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.

41.2.1 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.

41.1.2 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.

41.1.3 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 fore going process shall be repeated.

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

41.1.5 With the exception of the final payment under 41.2.3above, 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 in action 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.

## SECTION 8: SPECIAL CONDITIONS OF CONTRACT

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	<p>The Contract shall be construed in accordance with the law of Kenya</p> <p><i>[Where the Parties may designate the law of another country, in which case the name of the respective country should be inserted, and the name of Kenya should be removed.]</i></p>
4.1	<p>The language is: <b>English</b></p>
6.1 and 6.2	<p>The addresses are <i>[fill in at negotiations with the selected firm]</i>:</p> <p>Procuring Entity: _____            Attention: _____            Facsimile: _____            E-mail: _____</p> <p>Consultant: _____            Attention: _____            Facsimile: _____            E-mail: _____</p>
8.1	<p><i>[If the Consultant consists only of one entity, state "N/A";</i>  <i>OR</i>  <i>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.]</i>            The Lead Member on behalf of the JV is _____ <i>[insert name of the member]</i></p>
9.1	<p>The Authorized Representatives are:</p> <p>For the Procuring Entity: <b>Director-Urban Roads Planning &amp; Design</b></p> <p>For the Consultant: <b>Project Director</b></p>
11.1	<p>The effectiveness conditions are the following:  <i>[Note: If there are no effectiveness conditions, state "N/A"]</i></p> <p><i>OR</i></p> <p><i>List here any conditions of effectiveness of the Contract, e.g., receipt by the Consultant of an advance payment, and by the Procuring Entity of an advance payment guarantee (see Clause SCC45.1(a)), etc.]</i></p>
12.1	<p>Termination of Contract for Failure to Become Effective:</p> <p>The time shall be <u>30 days of notice.</u></p>
13.1	<p>Commencement of Services:            The number of days shall be <b>14 days after the order of commencement.</b></p> <p>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.</p>
14.1	<p>Expiration of Contract: <b>12 months after commencement date.</b></p>



Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>The period shall be <b>12 months</b>.</p> <p>The Consultant shall be charged Liquidated Damages at the rate of 0.05% of the contract sum per day for the extra days beyond the official contract period plus any time extensions granted by the client, to a maximum of 5% of the contract sum, beyond which the contract shall be terminated in accordance to the conditions of contract.</p>
21 b.	<p>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</p> <p><b>Yes</b></p>
23.1	<p>No additional provisions.</p> <p><i>[OR</i></p> <p>The following limitation of the Consultant’s Liability towards the Procuring Entity can be subject to the Contract’s negotiations:</p> <p>“Limitation of the Consultant’s Liability towards the Procuring Entity:  (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity’s property, shall not be liable to the Procuring Entity:  (i) for any indirect or consequential loss or damage; and  (ii) for any direct loss or damage that exceeds two times the total value of the Contract;  (b) This limitation of liability shall not  (i) affect the Consultant’s liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services;  (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law.</p> <p><i>[Notes to the Procuring Entity and the Consultant:</i></p> <p><i>Any suggestions made by the Consultant in the Proposal to introduce exclusions/limitations of the Consultant’s liability under the Contract should be carefully scrutinized by the Procuring Entity prior to accepting any changes to what was included in the issued RFP.</i></p> <p><i>To be acceptable to the Procuring Entity, any limitation of the Consultant’s liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause to the Procuring Entity, and (b) the Consultant’s ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant’s liability shall not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. <u>A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Procuring Entity.</u> Also, the Consultant’s liability should never be limited for loss or damage caused by the Consultant’s gross negligence or willful misconduct.</i></p> <p><i>The Procuring Entity does not accept a provision to the effect that the Procuring Entity shall indemnify and hold harmless the Consultant against Third Party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Procuring Entity to the extent permissible by the law applicable in Kenya.]</i></p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
24.1	<p>The insurance coverage against the risks shall be as follows:</p> <p>(a) Professional indemnity insurance, with a minimum coverage of <b>Full amount of contract sum</b>.</p> <p>(b) 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.; <b>KShs 1,000,000.00</b></p>
27.1	The additional rights to the use of the documents are N/A
27.2	The Consultant <b>SHALL NOT</b> use these <b>Mombasa NMT Master Plan, Preliminary and Detailed Engineering Design Documents</b> for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.
32.1 (a) through (e)	<i>[List here any changes or additions to Clause GCC 32.1. If there are no such changes or additions, indicate Not Applicable.] Not Applicable.</i>
32.1(f)	<i>[List here any other assistance to be provided by the Procuring Entity. If there is no such other assistance, indicate Not Applicable for this Clause SCC 32.1(f).] Not Applicable</i>
38.1	<p><b>The Contract price is: <u>Not applicable</u> [insert amount and currency for each currency as applicable] [indicate: inclusive or exclusive] of local taxes.</b></p> <p>Any local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall be paid by the Procuring Entity to the Consultant.</p> <p>The amount of such taxes is _____ [insert the amount as finalized at the Contract’s negotiations on the basis of the tax amounts provided by the Consultant in Form FIN-2 of the Consultant’s Financial Proposal.</p>
39.1 and 39.2	<p><i>[The Procuring Entity, depending on the source of funds and tax exemptions already granted by the Government, shall decide whether the Consultant (i) should be exempted from local tax, or (ii) should be reimbursed by the Procuring Entity for any such tax they might have to pay (or that the Procuring Entity would pay such tax on behalf of the Consultant)]</i></p> <p>The Procuring Entity warrants that <i>[choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations (Form FIN-2)]</i></p> <p><i>If ITC16.3 indicates a tax exemption status, include the following: “the Consultant, the Sub-consultants and the Experts shall be exempt from”</i></p> <p><i>OR</i></p> <p><i>If ITC16.3 does not indicate the exemption and, depending on whether the Procuring Entity shall pay the withholding tax or the Consultant has to pay, include the following:</i></p> <p><i>“the Procuring Entity shall pay on behalf of the Consultant, the Sub-consultants and the Experts,”</i></p> <p><i>OR “the Procuring Entity shall reimburse the Consultant, the Sub-consultants and the Experts”]</i></p> <p>any taxes, duties, fees, levies and other impositions imposed, under the applicable law in the Procuring Entity’s country, on the Consultant, the Sub-consultants and the Experts in respect of:</p> <p>(a) any payments whatsoever made to the Consultant, Sub-consultants and the Experts (other than nationals or permanent residents of Kenya), in connection with the carrying out of the Services;</p> <p>(b) any equipment, materials and supplies brought into Kenya by the Consultant or Sub-consultants for the purpose of carrying out the Services and which, after having been brought into</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>such territories, will be subsequently withdrawn by them;</p> <p>(c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Procuring Entity and which is treated as property of the Procuring Entity;</p> <p>(d) any property brought into Kenya by the Consultant, any Sub-consultants or the Experts (other than nationals or permanent residents of Kenya), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Procuring Entity's country, provided that:</p> <p>(i) the Consultant, Sub-consultants and experts shall follow the usual customs procedures of Kenya in importing property into Kenya; and</p> <p>(ii) if the Consultant, Sub-consultants or Experts do not withdraw but dispose of any property in the Procuring Entity's country upon which customs duties and taxes have been exempted, the Consultant, Sub-consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of Kenya, or (b) shall reimburse them to the Procuring Entity if they were paid by the Procuring Entity at the time the property in question was brought into the Procuring Entity's country.</p>
41.2	<p>The payment schedule:</p> <p><b>Twenty (20) percent</b> of the Contract Price shall be paid upon submission and acceptance by the Client of the inception report.</p> <p><b>Twenty (20) percent</b> of the Contract Price shall be paid upon submission and acceptance by the Client of the Needs Assessment Report</p> <p><b>Thirty (20) percent</b> of the Contract Price shall be paid upon submission and acceptance by the Client of the Preliminary Engineering Design Report.</p> <p><b>Thirty (20) percent</b> of the Contract Price shall be paid upon submission and acceptance by the Client of the Draft Detailed Engineering Design Report</p> <p><b>Twenty (20) percent</b> of the Contract Price shall be paid upon submission and acceptance by the Client of the Final Engineering Design Report and provision of a certificate of satisfaction by Director, Directorate of Urban Roads Planning and Design that the Consultant has fulfilled contractual obligation.</p>
41.2.1	<p>The following provisions shall apply to the advance payment and the advance bank payment guarantee:</p> <p>(1) An advance payment [of <i>[Not Applicable]</i> in foreign currency] [and of <i>[insert amount]</i> in Kenya Shillings] shall be made within <i>[insert number]</i> days after the receipt of an advance bank payment guarantee by the Procuring Entity. The advance payment will be set off by the Procuring Entity in equal portions against [list the payments against which the advance is offset].</p> <p>(2) The advance bank payment guarantee shall be in the amount and in the currency of the currency (ies) of the advance payment.</p> <p>(3) The bank guarantee will be released when the advance payment has been fully set off.</p>
41.2.4	<p>The accounts are:</p> <p>Account Number: _____</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Account Name: _____ Bank: _____ Address: _____
42.1	<b>The interest rate;</b> If the Client has delayed payments beyond ninety (90) days after the due date hereof, simple interest may be paid to the Consultant for each day of delay at the prevailing Central Bank of Kenya’s average rate for base.
45.1	Disputes shall be settled by arbitration in accordance with the following provisions:  1. <u>Selection of Arbitrators.</u> 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:  (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 the <i>Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland</i> for a list of not fewer than five 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>Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.  (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 do not succeed 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>the Secretary General of the International Centre for Settlement of Investment Disputes,</i> .  (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 <i>the Secretary General of the International Centre for Settlement of Investment Disputes,</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.
	2. <u>Rules of Procedure.</u> 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.  3. <u>Substitute Arbitrators.</u> 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.  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

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>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) English 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>

## SECTION 9: APPENDICES

### Appendix A – Terms of Reference

[Note: This Appendix shall include the final Terms of Reference (TORs) worked out by the Procuring Entity and the Consultant **during the negotiations**; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Consultant will be made; Procuring Entity's input, including counterpart personnel assigned by the Procuring Entity to work on the Consultant's team; specific tasks or actions that require prior approval by the Procuring Entity.

Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 of the Consultant's Proposal. Highlight the changes to Section 5 of the RFP

.....

### Appendix B - Key Experts

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

.....

### Appendix C – Breakdown of Contract Price

[Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall be based on [Form FIN-3 and FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3 and FIN-4] at the negotiations or state that none has been made.]

### Appendix D - Form of Advance Payment Guarantee

[Note: See Clause GCC 41.2.1 and SCC 41.2.1]

Bank Guarantee for Advance Payment \_\_\_\_\_ [Bank's Name and Address of Issuing Branch or Office] Beneficiary: \_\_\_\_\_ [Name and Address of Procuring Entity]  
Date: \_\_\_\_\_

ADVANCEPAYMENTGUARANTEE No.: \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called "the Consultant") has entered into Contract No. \_\_\_\_\_ [reference number of the contract] dated \_\_\_\_\_ with you, for the provision of \_\_\_\_\_ [brief description of Services] (herein after called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of \_\_\_\_\_ [amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] here by irrevocably undertake to pay you any sum or sums not exceeding in total an amount of \_\_\_\_\_ [amount in figures] () [amount in words]<sup>1</sup> upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number \_\_\_\_\_ at \_\_\_\_\_ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made Full repayment of the amount of the advance payment, or on the day of \_\_\_\_\_,<sup>2</sup> whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

*[Signature]*

***Note:** All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.*

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## BREAKDOWN OF AGREED FIXED RATES IN CONSULTANT'S CONTRACT

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency]) \*

Experts		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration rate per Working Month/Day/Year	Social Charges <sup>1</sup>	Overhead <sup>1</sup>	Subtotal	Profit <sup>2</sup>	Away from Home Office Allowance	Agreed Rate per Working Month/Day/Hour	Fixed Rate per Working Month/Day/Hour <sup>1</sup>
Home Office									
Work in Kenya									

Expressed as percentage of 1

<sup>1</sup> Expressed as percentage of 4

\* If more than one currency, add a table

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name and Title: \_\_\_\_\_



## **APPENDIX D: REIMBURSABLE EXPENSES COST ESTIMATES**

1. {Insert the table with the Reimbursable Expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The foot note shall list such changes made to [FormFIN-4] at the negotiations or state that none has been made.}
2. All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount.

## APPENDIX E: FORM OF ADVANCE PAYMENTS GUARANTEE

[Note: See Clause GCC 41.2 and

SCC41.2] Bank Guarantee for Advance

Payment

\_\_\_\_\_ [Bank's Name and Address of Issuing Branch or Office]

Beneficiary: \_\_\_\_\_ [Name and Address of Procuring

Entity] Date: \_\_\_\_\_

ADVANCE PAYMENT GUARANTEE No. \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called " the Consultant") has entered into Contract No. \_\_\_\_\_

\_\_\_\_\_ [Reference number of the contract] dated \_\_\_\_\_ with you, for the provision of \_\_\_\_\_ [brief description of Services] (hereinafter called " the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of \_\_\_\_\_ [Amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of \_\_\_\_\_ [amount in figures] () [amount in words]<sup>1</sup> upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number \_\_\_\_\_ at \_\_\_\_\_ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made full repayment of the amount of the advance payment, or on the day of \_\_\_\_\_, 2\_\_\_\_, <sup>2</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that

date. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.

[Signature (s)]

**Note:** All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.

<sup>1</sup>The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as Specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

<sup>2</sup>Insert the expected expiration dates. In the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

## SECTION 10. NOTIFICATION FORMS

### 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>

**i) Short listed Consultants**

*[INSTRUCTIONS: insert names of all short-listed Consultants and indicate which Consultants submitted Proposals. Where the selection method requires it, state the price offered by each Consultant as readout, and as evaluated. Include overall technical scores and scores assigned for each criterion and sub-criterion.]*

	<b>Submitted Proposal</b>	<b>Overall technical score</b>	<b>Financial Proposal Price</b>	<b>Evaluated Financial Proposal Price (If applicable)</b>	<b>Combined Score and ranking (if applicable)</b>
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u> .....etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	.....	....	....	....	.....

(ii) **Reason/s why your Proposal was unsuccessful** [*Delete if the combined score already reveals the reason*].

[INSTRUCTIONS; State the reason/s why this Consultant's Proposal was unsuccessful. Do NOT include: (a) a point by point comparison with another Consultant's Proposal or (b) information that is marked confidential by the Consultant in its Proposal.]

(iii) **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 of 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 ---- (specify the number of business days as per Data Sheet 30.1) 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: \_\_\_\_\_

**1 REQUEST FOR REVIEW**

**FORM FOR REVIEW(r.203(1))**

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

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

**BETWEEN**

.....**APPLICANT (Review Board)**

**AND**

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

Request for review of the decision of the..... (Name of the Procuring Entity of .....dated the...day of .....20.....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/orders 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 of .....20.....

**SIGNED**

**Board Secretary**

## 2 NOTIFICATION OF AWARD

REF:

Date:

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

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

This is to notify you that your Proposal dated \_\_\_\_\_ [insert date] for consulting services for [name of the assignment] as negotiated with you on \_\_\_\_\_ for the contract amount of \_\_\_\_\_ [Insert amount in numbers and words and name of currency] is hereby accepted by our agency.

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: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

**Attachment: Draft Negotiated Contract**



### 3 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 having 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 having 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]*

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*\*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.*

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

