

THIKA WATER AND SEWERAGE COMPANY

REQUEST FOR PROPOSAL

TENDER NO: THIWASCO 008/2018-2019

**Provision of Enterprise Risk Management Consultancy
Services, Framework Design and Development**



P.O. BOX 6103, THIKA
E-mail: thikawater@yahoo.com
Tel: 0720 418444
0734 660000

(2018 – 2020)

SECTION I - LETTER OF INVITATION

TO: (Name and Address of Consultants)

Date _____

Dear Sir/Madam,

RE: PROVISION OF ENTERPRISE RISK MANAGEMENT CONSULTANCY SERVICES, FRAMEWORK DESIGN AND DEVELOPMENT

Thika Water and Sewerage Company therefore invites RFP for Training and Consultancy of **ENTERPRISE RISK MANAGEMENT SERVICES, FRAMEWORK, DESIGN AND DEVELOPMENT** at Thika Water and Sewerage as per the TOR. More details of the services are provided in the terms of reference herein.

The request for proposals (RFP) includes the following:

- Section I - Letter of invitation
- Section II - Information to Consultants
- Section III - Terms of reference
- Section IV - Technical proposal
- Section V - Financial proposal
- Section VI - Standard Forms

Completed proposal documents are to be enclosed in plain sealed envelopes marked with tender reference number and be addressed to the Thika Water and Sewerage Company and be deposited in the Tender Box in our offices at Thika.

The Managing Director,
Thika Water and Sewerage Company,
P O Box 6103,
Thika.

So as to be received on or before, 14th June, 2018 at 10:00am.

Prices quoted should be net inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for 90 days from the closing date of the tender.

Opening and closing of tenders will take place **at 10.00am** at the company in the presence of the tenderers who wish to attend.

SECTION II - INFORMATION TO CONSULTANTS

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SECTION II - INFORMATION TO CONSULTANTS

2.1 Introduction

- 2.1.1 Thika Water and Sewerage Company will select a consulting firm among those invited to submit proposals or those who respond to the invitation for proposals in accordance with the method of selection detailed under this section and consistent with the regulations.
- 2.1.2 The consultants are invited to submit a technical proposal and a financial proposal for the services required for the assignment stated in the letter of invitation (Section I)
- 2.1.3 In the assignment where the procuring entity intends to apply standard conditions of engagement and scales of fees for professional services, which scale of fees will have been approved by a relevant authority, a technical proposal only may be invited and submitted by the consultants. In such a case the highest ranked consulting firm in the technical proposals shall be invited to negotiate a contract on the basis of the set scale of fees. The technical proposals will be the basis for contract negotiations and ultimately for a signed contract with the selected consultant.
- 2.1.4 The consultants must familiarize themselves with local conditions as regards the assignment and take them into account in preparing their proposals. To obtain adequate information on the assignment and on the local conditions, consultants are encouraged to liaise with the procuring entity regarding any information that they may require before submitting a proposal.
- 2.1.5 The client will provide the inputs and services specified in the special conditions of contract needed to assist the individual consultant to carry out the assignment.
- 2.1.6 The cost of preparing the proposal and negotiating the contract including any visit to the procuring entity are not reimbursable as a direct cost of the assignment. The procuring entity is not bound to accept any of the proposals submitted.
- 2.1.7 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

2.2 Clarification and amendment to the FRP documents

- 2.2.1 Consulting firms may request clarification of any of the RFP documents not later than Seven (7) days before the deadline for the submission of the proposals. Any request for clarification must be sent in writing by post, fax or email to the procuring entity's address indicated in the special conditions of contract. The procuring entity will respond by post, fax or email to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all individual consultants invited to submit proposals.
- 2.2.2 At any time before the deadline for submission of the proposals, the procuring entity may for any reason; either at its own initiative or in response to a clarification requested by an intended consultant amend the RFP. Any amendment shall be issued in writing, fax or email to all invited consultants and will be binding on them. The procuring entity may at its discretion extend the deadline for the submission of the proposals.
- 2.2.3 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.

2.2.4 The procuring entity shall reply to and clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.3 Preparation of proposals

2.3.1 The consultant's proposal shall be written in English language.

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

2.3.3 While preparing the Technical proposal, the consultant must give particulars attention to the following:

- (a) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub-consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified
- (b) For all the staff who will be involved in the exercise of the proposals to consultant must indicate their responsibility in the assignment and also the staff time as necessary.
- (c) The curriculum vitae (CV) of the staff proposed must be submitted with the proposal.

2.3.4 The Technical proposal shall provide the following information;

- (a) The individual consultant's CV and a brief of any recent experience of assignment of a similar nature. For each assignment the brief should indicate the profiles of staff involved, contract amount and the individual consultant's involvement.
- (b) Any comments or suggestions on the Terms of Reference and a list of service and facilities requested to be provided by the procuring entity.
- (c) A description of the methodology and work plan for performing the proposed assignment.
- (d) Any additional information requested in the special conditions of contract.

2.3.5 The Technical proposal shall be separate from the financial proposal and shall not include any financial information.

2.4 Financial proposal

2.4.1 In preparing the financial proposal, the consultants are expected to take into account the time required in completing the assignment as outlined in the RFP documents. The financial proposal will therefore be quoted in fees per day or month. The financial proposal may also include other costs as necessary, which will be considered as reimbursable.

2.4.2 The Financial proposal should include the payable taxes.

2.4.3 The fees shall be expressed in Kenya Shillings.

2.4.4 The Financial proposal must remain valid for 90 days after the submission date. During this period the consultant is expected to keep available at his own cost any staff proposed for the assignment. The procuring entity will make best efforts to complete negotiations within this

period. If the procuring entity wishes to extend the validity period of the proposals, the consultants who do not agree, have the right not to extend the validity of their proposals.

2.4.5 The financial proposal must comply with the law governing the profession of the consultant.

2.5 Submission, Receipt and opening of proposals

2.5.1 The technical proposal and the financial proposal shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the consultants. Any such corrections must be initialed by the consultant.

2.5.2 For each proposal the consultants shall prepare the proposals in the number of copies indicated in the special conditions of contract. Each Technical proposal and financial proposal shall be marked “ORIGINAL” or “COPY” as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.

2.5.3 The original and all copies of the Technical proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL”, and the original and all copies of the financial proposal in a sealed envelope duly marked “FINANCIAL PROPOSAL”. Both envelopes shall be placed in an outer envelope and sealed. This outer envelope shall bear the procuring entities address and other information indicated in the appendix to the instructions to consultants and clearly marked “DO NOT OPEN before **10.00AM, 14th JUNE, 2018**”

2.5.4 The completed Technical and Financial proposals must be delivered at the submission address on or before the time and date of the submission of the proposals indicated in the appendix to the instructions to consultants. Any proposals received later than the closing date for submission of proposals shall be rejected and returned to the consultant unopened. For this purpose the inner envelope containing the technical and financial proposals will bear the address of the consultant submitting the proposals.

2.5.5 After the deadline for submission of proposals the outer envelope and the technical proposals shall be opened immediately by the opening committee. The financial proposals shall be marked with the consultants number allocated at the time of opening the outer envelope and the technical proposals but shall remain sealed and in the custody of a responsible officer of the procuring entity up to the time set for opening them after technical evaluation.

2.6 Evaluation of the Proposal (General)

2.6.1 From the time the proposals are opened to the time of the contract award, if any consultant wishes to contact the procuring entity on any matter relating to the proposal, he/ she should do so in writing at the address indicated in the appendix to the instructions to consultants. Any effort by a consultant to influence the procuring entity’s staff in the evaluation of proposals companion proposals or awards of contract may result in the rejection of the proposal.

2.6.2 The proposal evaluation committee shall have no access to the Financial Proposal, which in any case will remain sealed, until the technical evaluation is concluded or finalized.

2.7 Evaluation of Technical Proposals

2.7.1 The evaluation committee appointed by the procuring entity to evaluate the proposals shall carry out the evaluation of technical proposals following the criteria set out in the terms of reference based on the following points criteria

A. Preliminary evaluation criteria(Mandatory)

The tenderer must:

1. Submit the required number of copies of both the technical and financial proposals
2. Submit a copy of certificate of registration/ incorporation.
3. Submit a copy of valid tax compliance certificate
4. Submit a valid copy of business permit /license from relevant authorities to conduct business.
5. Serialize all pages for each bid submitted
6. Certified audited accounts for the last two years (2014-2015,2015-2016)

NB: only bidders who pass the preliminary stage will proceed to technical evaluation.

B. Technical Evaluation criteria

Criteria	Marks
The lead consultant must have at least 5 years of experience in Enterprise Management	15
Key experts' qualifications and competence, attach evidence of relevant certificates such as CPA,CRMA,CIA,etc and must be registered members with relevant professional bodies(ICPAK,IIA)	20
The consultant must have working and demonstrable knowledge of COSO & ISO 31000 risk management standards including implementation experience.	10
Firm profile must demonstrate experience with risk management consultancy in the public sector.	10
Provide a list of clients (5) and reference letters from these clients and attach certified copies of reference letters where these services have been offered .Three must be from the public sector	15
Physical facilities :provide details of physical address and contacts	10
Demonstrate Risk management training capability with an accredited firm /registration with relevant authorities	20
Total	100

Note:

- (i) Bidders must meet all the mandatory requirements to qualify for general and technical requirements.
- (ii) To qualify for financial evaluation, the bidder must score a minimum of 70 points (70%)
- (iii) Any information provided by the bidder may be verified by the company as part of due diligence and if information is found to be false, the company may be disqualified

- 2.7.2 Any proposal which will be examined and found not to comply with all the requirements for submission of the proposals will be declared non responsive. All the proposals found to have complied with all the requirements for submission of proposal shall be declared responsive by the evaluation committee
- 2.7.3 Each responsive proposal will be given a technical score (ST). any technical proposal which fails to achieve the total minimum score indicated in the appendix to the information to tenderers shall be rejected at this stage and will not proceed to the next stage of evaluation. The respective financial proposal will be returned to the individual consultant unopened.

2.8 Opening and Evaluation of Financial Proposals

- 2.8.1 After completion of the evaluation of Technical proposals the procuring entity shall notify the individual consultants whose proposal did not meet the minimum technical score or were declared non responsive to the RFP and terms of reference. The notification will indicate that their financial proposals shall not be opened and will be returned to them unopened after the completion of the selection process and contract award. At the same time, the procuring entity shall simultaneously notify the consultants who have secured the minimum technical score that they have passed the technical qualifications and inform them the date and time set by the procuring entity for opening their financial proposal. They will also be invited to attend the opening ceremony if they wish to do so.
- 2.8.2 The financial proposals shall be opened by the procuring entity in the presence of the individual consultants who choose to attend the opening. The name of the individual consultant, the technical score and the proposed fees shall be read out aloud and recorded. The evaluation committee shall prepare minutes of the opening of the financial proposals.
- 2.8.3 The formulae for determining the financial score (SF) unless an alternative formula is indicated in the appendix to the information to tenderers shall be as follows:

Sf = 100 x fm/f where
 Sf is the financial score
 Fm is the lowest fees quoted and
 F is the fees of the proposal under consideration.

The lowest fees quoted will be allocated the maximum score of 100

- 2.8.4 The individual consultants proposals will be ranked according to their combined technical score (st) and financial score (sf) using the weights indicated in the appendix to the instructions to consultants. Unless otherwise stated in the appendix to the instructions to consultants the formule for the combined scores shall be as follows;

$$S = ST \times T\% + SF \times P\%$$

Where

S, is the total combined scores of technical and financial scores

St is the technical score

Sf is the financial score

T is the weight given to the technical proposal and

P is the weight given to the financial proposal

Note $P + T$ will be equal to 100%

The individual consultant achieving the highest combined technical and financial score will be invited for negotiations.

2.9 Negotiations

2.9.1 Negotiations will be held at the same address indicated in the appendix to the information to consultants. The purpose of the negotiations is for the procuring entity and the individual consultant to reach agreements on all points regarding the assignment and sign a contract.

2.9.2 The negotiations will include a discussion on the technical proposals, the proposed methodology and work plan, staff and any suggestions made by the individual consultant to improve the Terms of reference. The agreed work plan and Terms of reference will be incorporated in the description of the service or assignment and form part of the contract.

2.9.3 The negotiations will be concluded with a review of the draft contract. If negotiations fail, the procuring entity will invite the individual consultant whose proposal achieved the second highest score to negotiate a contract.

2.10 Award of Contract

2.10.1 The contract will be awarded before commencement of negotiations. After negotiations are completed the procuring entity will promptly notify the other individual consultants that they were unsuccessful and return the financial proposals of the individual consultants who did not pass technical evaluation.

2.10.2 The selected individual consultant is expected to commence the assignment on the date indicated in the appendix to the information to consultants or any other date agreed with the procuring entity.

2.11 Confidentiality

2.11.1 Information relating to evaluation of proposals and recommendations of contract award shall not be disclosed to the individual consultants who submitted the proposal or to other persons not officially concerned with the process, until the winning individual consultant has been notified that he/she has been awarded the contract.

Appendix to information to consultants

Notes on the Appendix to Information to Consultants

1. The Appendix to information to consultant is intended to assist the Thika Water and Sewerage Company in providing specific information in relation to corresponding claims in the information to consultants included in Section II and the appendix has to be prepared for each specific consultancy.
2. The Procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the assignment of the consultancy and the proposals evaluation criteria that will apply to the RFP Consultancy.
3. In preparing the appendix the following aspects should be taken into consideration.
 - (a) The information that specifies or complements provisions of Section II to be incorporated.
 - (b) Amendments of Section II as necessitated by the circumstances of the specific consultancy to be also incorporated
 - (c) Section II should remain unchanged and any changes or amendments should be introduced through the appendix.

Appendix to Information to Consultants (ITC)

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

The name of the Client is:

Thika Water and Sewerage Company
P.O. BOX 6103, THIKA
E-mail: thikawater@yahoo.com
Tel: 0720 418444
0734 660000

The method of selection is:

COMPETITIVE BIDDING BASED ON QUALIFICATIONS AND COST

Technical and Financial Proposals are requested: Yes No

The name, objectives, and description of the assignment are:

**PROVISION OF ENTERPRISE RISK MANAGEMENT CONSULTANCY SERVICES
FRAMEWORK DESIGN AND DEVELOPMENT AT THIKA WATER AND SEWERAGE
COMPANY**

Scope and Coverage of the Consultancy Services

Provision of Enterprise Risk Management Consultancy services framework design and development at Thika Water and Sewerage Company

The Client will provide the following inputs:

All data statistics and information required for the assignment

- I. The estimated number of professional staff weeks required for the assignment is a maximum eight weeks.
- II. The minimum required experience of proposed professional staff is FIVE YEARS
- III. One alternate professional shall be allowed for each position. The CV of the alternate should be attached.
- IV. Training is a specific component of this assignment.

Taxes: The Consultant will pay for all the local taxes, duties, fees, levies and other charges applicable in Kenya. The financial proposal should therefore include any taxes payable in Kenya.

Consultants should submit an **original** and **ONE** additional copy of each proposal.

2.5.2 The proposal submission address is:

THE MANAGING DIRECTOR,
THIKA WATER AND SEWERAGE COMPANY
P.O. BOX 6103, THIKA
E-MAIL: THIKAWATER@YAHOO.COM
TEL: 0720 418444, 0734660000

Information on the outer envelope should also include:
“THIWASCO 008/2018-2019”

**PROVISION OF ENTERPRISE RISK MANAGEMENT CONSULTANCY
SERVICES FRAMEWORK DESIGN AND DEVELOPMENT IN THIKA WATER
AND SEWERAGE COMPANY**

2.5.3 Proposals must be submitted not later than the following date and time:

The original and all copies of the Technical proposal shall be placed in a sealed envelope clearly marked “TECHNICAL PROPOSAL”, and the original and all copies of the financial proposal in a sealed envelope duly marked “FINANCIAL PROPOSAL”. Both envelopes shall be placed in an outer envelope and sealed. This outer envelope shall bear the:

**PROVISION OF ENTERPRISE RISK MANAGEMENT CONSULTANCY
SERVICES IN THIKA WATER AND SEWERAGE COMPANY**

and clearly marked “DO NOT OPEN BEFORE **14thJUNE, 2018 AT 10:00am.**”

The address to send information to the

**THE MANAGING DIRECTOR,
THIKA WATER AND SEWERAGE COMPANY
P.O. BOX 6103, THIKA
E-MAIL: thikawater@yahoo.com
TEL: 0720 418444**

2.7.1 The minimum technical score required to pass for the assignment is: 60% IN EACH OF THE THREE (3) AREAS that is:

- (i) Specific Experience of the Consultants Relevant to the Assignment.
- (ii) Adequacy of the Proposed Methodology and Work Plan in responding to the Terms of Reference:
- (ii) Key professional staff qualifications and competence for the assignment

2.72 The weights given to the Technical (T) and Financial (P)

Proposals are: Technical = 70%
Price = 30%

TORS for ERM Framework

As part of the ongoing public financial management (PFM) reforms, a need has been identified for a more effective corporate governance framework as well as an accountable financial management system at THIKA WATER AND SEWERAGE COMPANY LTD. The performance contracting and results based management already in place demands a framework that provides a basis for management to effectively deal with uncertainties and associated risks. An Institutional Risk Management Policy Framework (IRMPF) will enable the Company to focus on a comprehensive and holistic basis on all the risks which could impact on achievement of strategic objectives as well as service delivery targets. THIKA WATER AND SEWERAGE COMPANY LTD. management expects that the framework will include, inter alia the following sound risk management system:

- a) Reliable institutional risk identification and mitigation process and systems.
- b) Adequate risk monitoring and management on areas of safety and security.
- c) Cost effective management and mitigation of risk for the Company
- d) Effective Board and Senior Management oversight.
- e) Adequate fiduciary operations policies, procedures and limits.
- f) Adequate compliance Risk management information systems.
- g) Adequate incident and loss management information systems.
- h) Adequate risk monitoring and management information systems.
- i) Adequate internal controls; and
- j) Effective operational, fiduciary, and complaint management.

2. PURPOSE OF THE ASSIGNMENT

THIKA WATER AND SEWERAGE COMPANY LTD. seeks the services of a consultant to support the development and implementation of ERM framework for the Company. The work will be carried out at both the THIKA WATER AND SEWERAGE COMPANY LTD.

The consultant will be expected to:

- (a) Facilitate implementation of Enterprise Risk Management in all the departments of the Company based on a Risk management methodology consistent with the risk management process outlined in ISO31000 International Standard.
- (b) Develop suitable corporate risk management tools, techniques, practices and processes that would define and manage the full range of risks across the Company and provide guidance on their application.
- (c) Prepare and submit relevant risk management policies.
- (d) Undertake capacity building (Training) on Enterprise Risk Management through training and knowledge for Board, Senior Management and Risk Champions (Staff).
- (e) Support the monitoring of implementation of the Enterprise Risk Management.

Scope of Services

The consultant(s) will be required to familiarize themselves with the Company's strategic plan including the vision, mission, core mandate, goals, objectives and departmental workplans and to undertake the following;

1. Evaluate and improve the Company's risk management policy and framework inline with the ISO 31000 International Standard and regulatory guidelines and benchmark these to best practice.

2. Facilitate development of various sub-policies necessary for successful implementation of ERM and evaluate existing ones to ensure they meet best practice.

3. Undertake gap analysis between the existing Risk management practice in THIKA WATER AND SEWERAGE COMPANY LTD risk management policy and framework and best practice.

4. Propose an appropriate risk management strategy and methodology that integrates risk management into the existing decision making and reporting arrangements based on COSO & ISO 31000 International Standard.

5. Facilitate risk appetite setting workshops at Board and Senior Management levels and development of a Risk Appetite Statement for THIKA WATER AND SEWERAGE COMPANY LTD.

6. Develop a framework for monitoring compliance (both internal and external) with internal controls and processes, regulatory and statutory requirements applicable to THIKA WATER AND SEWERAGE COMPANY LTD..

7. Develop a framework for incident management recording and analysis linking to the entire Enterprise Risk Management framework.

9. Facilitate Risk and Control Self-Assessment (RCSA) workshops and identification of Key Risk Indicators (KRIs) from the various THIKA WATER AND SEWERAGE COMPANY LTD. departments and regions.

10. Develop an ERM implementation plan and facilitate its roll out.

11. Support the Internal Audit in implementation and improvement of Risk-Based Internal audit as the third line of defense.

12. Conduct awareness training for the process owners and a technical training for key technical staff involved in implementation of Water projects.

13. Develop and conduct a focused training for the board of directors and management.

14. Propose an appropriate organization structure for risk management throughout THIKA WATER AND SEWERAGE COMPANY LTD.

Expected Output

The expected output for provision of Enterprise Risk Management services are as follows;

- Risk management policy and framework.
- Report on gap analysis and recommendations management practice.
- Risk appetite statement(s).
- Frameworks for Compliance risk management, Incident Management, Risk
- Analytics and Reporting.
- Enterprise-wide risk register and risk registers departments and regional offices.
- Risk management procedures manual/guidelines.
- Report on capacity development on ERM.
- Proposed organization structure for risk management throughout THIKA WATER AND SEWERAGE COMPANY LTD..

EVALUATION

The evaluation of the proposals will be done as follows:

- Evaluation of the Technical Proposal based on the criteria set out in Table 1 below.
- Evaluation of the Financial Proposal.

The weight for financial proposal is 30% while the weight for technical proposal is 70%. The lowest cost proposal will be awarded 30 points. Other proposal will be awarded proportionate points as per the formula:

Lowest cost X 30 / Proposal's cost

Over ranking: The overall ranking will be computed as follows:
 $0.7 \times$ points score on technical + points score on financial proposal. The Bidder with the highest overall score shall be considered to be the winner.

a) Technical Proposal

The Technical Proposal shall be evaluated on the basis of the following scoring:

1) Compliance with general qualification	10%
2) Adequacy for the Assignment of the Key expert(s) Relevant education, training, experience in the sector/similar assignments.	40%
3) Specific experience of the Consultant (as a firm) Relevant to the Assignment:	30%
4) Proposed methodology	20%
Total	100%

All Technical Proposals which score 70% and above will go to the Financial Proposal evaluation stage for opening and evaluation.

SECTION IV - TECHNICAL PROPOSAL (TP)

Notes on the Preparation of Technical Proposal

The technical proposal shall be prepared and submitted by the consultants.

It shall contain the following:-

- (a) Submission letter
- (b) Particulars of the consultant including Curriculum vitae (CV)
- (c) Comments and suggestions of the consultant on the terms of reference, personnel, facility and other requirements to be provided by the procuring entity.
- (d) Description of the methodology and work plan for performing the assignment
- (e) Any proposed staff to assist in the assignment
- (f) Consultancy services activities times' schedule.

SECTION V- FINANCIAL PROPOSAL (FP)

Notes on the Preparation Financial Proposal

The financial proposal shall be prepared and submitted by the consultants. It shall contain the following.

- (a) Submission letter indicating total fees
- (b) Summary of costs
- (c) Breakdown of fees per activity
- (d) Breakdown of reimbursable costs/expenses per activity
- (e) Miscellaneous expenses

SECTION VI- STANDARD CONTRACT FORM

INDIVIDUAL PROFESSIONAL CONSULTANTS

(Lump-sum payment)

The contract form shall be completed by the procuring entity after the award of the contract and negotiation of the contract. It will be signed by both parties pursuant to the information to consultants clause 2.10.2

SECTION VI- STANDARD CONTRACT FORM

1. STANDARD CONTRACT FORM

**INDIVIDUAL PROFESSIONAL CONSULTANTS
(Lump-sum payments)**

This Agreement, [hereinafter called “the Contract”) is entered into this _____ [insert starting date of assignment], by and between.

_____ [Insert Client’s name] of [or whose registered office is situated at] _____ [insert Client’s address] (hereinafter called “the Client”) of the one part AND

_____ [Insert Consultant’s name] of [or whose registered office is situated at] _____ [insert Consultants address] (hereinafter called “the Consultant”) of the other part.

WHEREAS the Client wishes to have the Consultant perform the services [hereinafter referred to as “the Services”, and

WHEREAS the Consultant is willing to perform the said Services,

NOW THEREFORE THE PARTIES hereby agree as follows:-

- 1. **Services**
 - (i) The Consultant shall perform the Services Specified in Appendix A, “Terms of Reference and Scope of Service, “which is made an integral part Of this Contract.
 - (ii) The Consultant shall provide the personnel listed Appendix B, “Consultant’s Personnel,” to perform the Services.
 - (iii) The Consultant shall submit to the Client the reports in the form and within the time periods specified in Appendix C, “ Consultant’s Reporting Obligations.”

(Appendices A, B, and C to be prepared as appropriate)

- 2. **Term** The Consultant shall perform the Services during the Period commencing on _____ [insert starting date] and through to _____ [insert completion date], or any other period(s) as may be subsequently agreed by the parties in writing.

3. **Payment**
- A. **Ceiling**
 For Services rendered pursuant to Appendix A, the Client shall pay the Consultant an amount not to Exceed _____ [insert amount]. This amount has been established based on the understanding that it includes all the Consultant's costs and Profits as well as any tax obligation that may be imposed on the Consultant.
- B. **Schedule of Payments**
 The schedule of payments is specified below (Modify in order to reflect the output required as described in Appendix C.)
- Kshs. _____ upon the Client's receipt of the Draft report, acceptable to the Client; and
- Kshs. _____ upon the Client's receipt of the Final report, acceptable to the Client.
- Kshs. _____ Total
- C. **Payment Conditions**
 Payment shall be made in Kenya Shillings unless otherwise specified not later than thirty (30) days following submission by the Consultant of invoices in duplicate to the Coordinator designated in Clause 4 here below. If the Client has delayed payments beyond thirty (30) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three Percentage points above the prevailing Central Bank of Kenya's average rate for base lending.
4. **Project Administration**
- A. **Coordinator**
 The Client designates _____ [insert name] as Client's Coordinator; the Coordinator will be responsible for the Coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables, by the Client and for receiving and approving invoices for payment.
- B. **Reports**

The reports listed in Appendix C, “Consultant’s Reporting Obligations,” shall be submitted in the Course of the assignment and will constitute the basis for the payments to be made under paragraph 3.

5. **Performance Standards** The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Client considers unsatisfactory.
6. **Confidentiality** The Consultant shall not, during the term of this Contract and within two years after its expiration Disclose any proprietary or confidential Information relating to the Services, this Contract Or the Client’s business or operations without the Prior written consent of the Client.
7. **Ownership of Material** Any studies, reports or other material, graphic, software or otherwise prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software.
8. **Consultant Not to be Engaged in certain Activities** The Consultant agrees that during the term of this Contract and after its termination the Consultant and any entity affiliated with the Consultant shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
9. **Insurance** The Consultant will be responsible for taking out any appropriate insurance coverage.
10. **Assignment** The Consultant shall not assign this Contract or sub-contract any portion of it without the Client’s prior written consent.
11. **Law Governing Contract and Kenya Language** The Contract shall be governed by the laws of Kenya and the language of the Contract shall be English language

12. **Dispute Resolution**

Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, On the request of the applying party.

For the Client

Full name _____

Title _____

Signature _____

Date _____

For the Consultant

Full name _____

Title _____

Signature _____

Date _____

TENDER SECURITY FORM

Whereas[name of the tenderer]

(here in after called “the tenderer”)has submitted its tender dated.....[date of submission of tender] for the provision of

[name and/or description of the services]

(hereinafter called “the Tenderer”).....

KNOW ALL PEOPLE by these presents that WE.....

Of.....having registered office at

[name of procuring entity](hereinafter called “the Bank”)are bound unto.....

[name of procuring entity](hereinafter called “the procuring entity”) in the sum of

for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this _____ day of 20_____.

THE CONDITIONS of this obligation are:

- 1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
- 2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:

- (a) fails or refuses to execute the Contract Form, if required; or
- (b) fails or refuses to furnish the performance security, in accordance with the instructions to tenderers;

we undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions. This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[signature of the bank]

(Amend accordingly if provided by Insurance Company)

PERFORMANCE SECURITY FORM

To:

.....

[name of the Procuring entity]

WHEREAS.....[name of tenderer]

(hereinafter called “the tenderer”) has undertaken, in pursuance of Contract No. _____ [reference number of the contract] dated _____ 20____ to supply.....

[Description services](Hereinafter called “the contract”)

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the _____ Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of
[amount of the guarantee in words and figures],

and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits _____ of
[amount of guarantee] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of 20_____

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

BANK GUARANTEE FOR ADVANCE PAYMENT

To.....

[name of tender].....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the special conditions of contract, which amends the general conditions of contract to provide for advance payment,

.....

[name and address of tenderer][hereinafter called "the tenderer"] shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said clause of the contract in an amount of
[amount of guarantee in figures and words].
We, the

[bank or financial institution], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding *[amount of guarantee in figures and words]*.

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there under or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment received by the tenderer under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]
[address]

[date]

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER