



**THIKA WATER AND SEWERAGE COMPANY LIMITED
(THIWASCO)**

TENDER NO: THIWASCO/018/2020-2022

PROJECT: PROVISION OF LEGAL CONSULTANCY SERVICES

**MANAGING DIRECTOR
THIKA WATER AND SEWERAGE COMPANY LTD,
P.O. BOX 6103 - 00100, THIKA – KENYA.**

(2020-2022)

CLOSING DATE: 22ND JUNE 2020 AT 10.00AM

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SECTION I- LETTER OF INVITATION

To All eligible bidders

Date:27th May 2020

Dear Sir/Madam,

- 1.1 Thika Water and Sewerage Company Limited invites proposals for the following consultancy services – **(Provision of Legal Consultancy Services)** more details of the services are provided in the terms of reference herein.
- 1.2 The request for proposal (RFP) includes the following documents;
 - 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
- 1.3 On receipt of this RFP please inform us
 - (a) that you have received the letter of invitation; and
 - (b) whether or not you will submit a proposal for the assignment

Yours sincerely.

THIWASCO/018/2020-2022

The Managing Director

Thika Water and Sewerage Company Ltd

SECTION II - INFORMATION TO CONSULTANTS

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SECTION II - INFORMATION TO CONSULTANTS

2.1 Introduction

- 2.1.1 Thika Water and Sewerage Limited Company (THIWASCO) will select an individual consultant 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 consulting 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 individual consultant 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 individual 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 RFP documents

2.2.1 Individual consultant 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 individual consultant amend the RFP. Any amendment shall be issued in writing, fax or email to all invited individual 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 individual consultant's proposal shall be written in English language.

2.3.2 In preparing the Technical proposal, the individual 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 individual consultant must give particular attention to the following:

- (a) If an individual consultant considers that he/she does not have all the expertise required for the assignment he/she may suggest in the proposals other individual(s) who will assist in the assignment but they will not be party to the contract for the purpose of the performance of the assignment. An individual consultant will not propose other individual consultants invited to submit proposals for the assignment. Any individual consultant 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 consultants 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 individual 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 individual 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 (if required) shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the individual consultants. Any such corrections must be initialed by the individual consultant.
- 2.5.2 For each proposal the individual 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 (day, date and time of submission of the proposal)

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 individual consultant unopened. For this purpose the inner envelope containing the technical and financial proposals will bear the address of the individual 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 individual 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.

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 individual consultant wishes to contact the procuring entity on any matter relating to his/her proposal, he/ she should do so in writing at the address indicated in the appendix to the instructions to consultants. Any effort by an individual 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 individual consultant 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

	<u>CRITERIA</u>	<u>POINTS</u>
(i)	CV of the individual consultant	30
(ii)	Specific experience of the individual consultant Related to the assignment	30
(iii)	Adequacy of methodology and work plan In response to the Terms of reference	<u>40</u>
	Total points	100

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 UN opened 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:

$S_f = 100 \times \frac{f_m}{f}$ 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 THE INSTRUCTIONS TO CONSULTANTS

ITC	Particulars of appendix to instructions to consultants																
24.4	Financial Validity: Financial proposals shall remain valid for 120 days																
2.5.2	<p>Number of copies submitted: Consultants shall submit 2(two) copies of the technical proposal and 1(one) copy of the financial proposal.</p> <p>Complete manual tender document may be obtained by interested candidates upon payment of a non- refundable fee of (<i>Kshs.1,000.00</i>) to (THIKA WATER AND SEWERAGE COMPANY LTD,EQUITY BANK ACCOUNT:0090294392028,EQUITY PLAZA,THIKA BRANCH).Tender documents code-027 or download the tender documents free of charge from the Thika Water and Sewerage Company Ltd Website www.thikawater.co.ke. Bidders who download the documents from the website MUST also forward their particulars immediately for records via email to procurement@thikawater.co.ke</p>																
2.5.3	Day, date and time of submission of proposal: Monday.22 June 2020 at 10.00am																
2.5.4	<p>Submission address: Street Address: Thika Water and Sewerage Company Limited. Head office near Blue post Hotel along Haile Selassie Rd.</p> <p>City: Thika Address: P.O. Box 6103 – 01000 THIKA Country: Kenya Telephone: +254 720 418 444</p>																
2.7.1	<p><u>Evaluation Criteria</u></p> <p>The following requirements must be met by the tenderer not withstanding other requirements in the tender document.</p> <p>a) Mandatory requirements</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">No</th> <th style="width: 75%;">Requirement</th> <th style="width: 10%;">Yes</th> <th style="width: 10%;">No</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td>Provide copy of Company incorporation / Registration Certificate.</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">2</td> <td>Current valid Trade License/Local Authority Permit</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">3</td> <td>Provide a copy of Valid Company Tax compliance certificate.</td> <td></td> <td></td> </tr> </tbody> </table>	No	Requirement	Yes	No	1	Provide copy of Company incorporation / Registration Certificate.			2	Current valid Trade License/Local Authority Permit			3	Provide a copy of Valid Company Tax compliance certificate.		
No	Requirement	Yes	No														
1	Provide copy of Company incorporation / Registration Certificate.																
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3	Provide a copy of Valid Company Tax compliance certificate.																

4	Submit copy of NSSF Compliance Certificate or Evidence of Registration.		
5	Submit Copy of NHIF Compliance Certificate or Evidence of Remittance of Employees NHIF Contributions Employees NHIF Contributions.		
6	Clearance by the advocate's complaints commission.		
7	Insurance indemnity certificate cover for at least 5 million ksh.		
8	Current practicing certificate for the partners/proprietors and all associates practicing under the firm.		
9	Certificate of Confirmation of Directors and Shareholding (up to date CR12) for limited company or/ an ID Card for Sole Proprietorship/partnership		
10	Certificate of good standing from the Law Society of Kenya.		
11.	Must be an Advocate of the High Court of Kenya with a current practicing certificate; Attach proof		
12.	Submit two copies of bid documents clearly marked technical and financial proposals		

Note: Noncompliance with any MANDATORY requirement will automatically result in disqualification

b). Technical Evaluation criteria

No	Parameters	Max Scores
B1	Provide a list of clients and references to which the company has offered similar services in the last 3 years; Attach certified evidences by previous clients.	Max scores 30
	Ten clients and above (30)marks	
	Five to seven clients (20)marks	
	Three to five clients (10)marks	
	Below three clients (0)marks	

c). Management Profile

No	Parameters	Max Scores 30
	Managerial and Key Personnel Competency Profile; (3)marks Provide Details of any relevant certifications and/or accreditations of principals and attach copies of such certification which should be relevant to the work and attach copies of such certification which should be relevant to the work they do and the key skills for the services required in response to Terms of reference. (15marks)	
c1	Details of at least three principals (4 marks each).	
C2	Adequacy of methodology and work plan 1. Interpretation of the Terms of Reference - 15 2. Clarity of Work plan – clear and precise - 10 3. Description of Deliverables - 15	40
	Total	100

Note:

(i) Bidders must meet all the mandatory requirements to qualify for general and technical requirements.

	<p>(ii) The bidder quoting the lowest price having attained 70% technical score shall be recommended for financial evaluation.</p> <p>(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</p> <p>d) Financial Evaluation</p> <p>Consultant achieving a minimum score of (70%) will proceed to financial evaluation.</p>
2.7.3	Weight given to the Technical score (ST): 70% and financial (SF): 30%
2.10	<p>Award of contract; consultant achieving the highest combined technical and financial score will be invited for negotiations</p> <p>In case of a tie competitive bidding shall be applied.</p>
2.10.1	The amount of Performance Security shall be [10% of the contract price]

SECTION III - TERMS OF REFERENCE (TOR)

1. BACKGROUND AND CONTEXT

THIWASCO is a public company established through the Water Act, 2002 by Athi Water Services Board. Its core business is provision of water and sewerage services within Thika Town and its environs.

2. OBJECTIVE

THIWASCO hereby seeks to create a pool of preferred legal service providers to provide legal services to THIWASCO on an ad hoc basis. Suitable firms of legal practitioners are hereby required to submit their intent for participation on the preferred supplier database.

3. SCOPE OF LEGAL SERVICES

- i. Review and provide legal advice on tender documents.
- ii. Review ongoing cases and advice management accordingly.
- iii. Liaise with relevant departments to ensure that where legal risks have been identified, appropriate courses of action have been taken.
- iv. Provide legal protection and risk management advice to management especially on contract management.
- v. Provide and interpret legal information, conduct training and disseminate appropriate legal requirements to staff.
- vi. Review and advise management on legal implications of internal policies and procedures.
- vii. Review and draft contracts, agreements and internal policies and ensure that they are in compliance with all statutory or legal requirements.
- viii. Review progress of outstanding litigation and liaise with and manage external lawyers.
- ix. Formulate compliance check-lists to be used for the purpose of ensuring that all information required is provided accordingly.

- x. Continuously monitor compliance with statutory obligations and advise management accordingly.
- xi. Review all contracts or any other documentation where the Company has committed itself and assess legal implications that need to be brought to the executive management's attention.
- xii. Prepare, review and modify contractual instruments to assist and support various business activities.
- xiii. Negotiate, review and draft documentation for business transactions and prepare and advise on the necessary checklist to be adopted to ensure information is submitted on time.

4. TIME FRAME, DURATION AND COMMENCEMENT OF LEGAL SERVICES

The legal consultancy duration will be for an initial period of two years and will be subject to extensions based on acceptable performance.

5. QUALIFICATIONS / PROFILE

The minimum qualifications requested are as follows:

- i. LLB undergraduate degree;
- ii. A Master's degree will be an added advantage;
- iii. Must be an Advocate of the High Court of Kenya with a current practicing certificate.
- iv. At least 5 years of relevant experience in providing legal services.
- v. Good knowledge of the legal procedures as governed by the Kenyan legislation, especially the legal framework under which Government institutions operate;
- vi. Excellent communication and presentation skills.

6. SUBMISSION OF APPLICATIONS

Eligible Legal Consultant(s) should submit technical and financial proposals in hard copy format. Proposals should also include the following;

- i. Statement of relevant experience i.e. similar assignments executed /under execution in the last five years;
- ii. Measurable goals, objectives and methodology;
- iii. Indication of availability to carry out the legal consultancy during the period 2020-2022
- iv. Supporting documents such as CVs are to be attached as appendix

Proposals should be submitted in hard copy not later than 22nd June 2020 at 10.00am. and addressed to:

**THE MANAGING DIRECTOR,
THIKA WATER & SEWERAGE COMPANY LTD
P.O. BOX 6103- 01000
THIKA**

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.

(To be prepared by the consultant as appropriate)

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

(To be prepared by the consultant as appropriate)

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 consultant's 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.)

the Kshs. _____ Upon the Client's receipt of
Draft report, acceptable to the Client; and

the Kshs. _____ Upon the Client's receipt of
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 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

for the Consultant

Full name _____

Full name _____

Title _____

Title _____

Signature _____

Signature _____

Date _____

Date _____

2. BID SECURING DECLARATION FORM

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

Date:
.....
[Insert date (as day, month and year)]

Bid No.:
.....
[Insert number of bidding process]

Alternative No.:
.....
[Insert identification No if this is a Bid for an alternative]

To:
.....
[Insert complete name of Procuring Entity]

We, the undersigned, declare that:
We understand that, according to your conditions, tenders must be supported by a Tender-Securing Declaration.
We accept that we will automatically be suspended from being eligible for bidding in any contract with the Procuring Entity for the period of time of [insert number of months or years]..... Starting on [insert date].....if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) Have withdrawn our Bid during the period of bid validity specified in the Form of Tender; 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 ITB.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of:-

- (I) our receipt of your notification to us of the name of the successful Bidder; or
- (II) twenty-eight days after the expiration of our Tender.

Signed:

.....
..... [Insert signature of person whose name and capacity are shown] In the capacity of

3.

REQUEST FOR REVIEW FORM

FORM RB 1

**REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

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

BETWEEN

.....APPLICANT

AND

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

Request for review of the decision of the..... (*Name of the Procuring Entity*) of
.....dated the...day of20.....in the matter of Tender No.....of
.....20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical
address.....Fax No.....Tel. No.....Email, hereby request the Public
Procurement Administrative Review Board to review the whole/part of the above mentioned
decision on the following grounds , namely:-

- 1.
- 2.
- Etc.

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

- 1.
- 2.
- Etc

SIGNED (Applicant)

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

FOR OFFICIAL USE ONLY

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

SIGNED
Board Secretary