**CONTRACT FOR PROVISION OF CONSULTANCY SERVICES**

**BETWEEN**

**MR. RICHARD SETH KARSAN**

**AND**

**…………………………………………………………………………………………**

**CONTRACT FOR PROVISION CONSULTANCY SERVICES**

This Agreement is dated this **Monday, 17 October 2016**.

**BETWEEN**

**…………………………………..**, a company incorporated and existing under the Laws of Kenya with its registered office ............................................and of P.O. Box ..................., Nairobi, Kenya (hereinafter referred to as “the Client” which expression shall where the context admits include its successors and assigns) of the first part.; and

RICHARD SETH KARSAN of Post Office Box Number………………., Nairobi, Kenya and having his registered residence within the Republic of Kenya of the other part; hereinafter called “the Consultant” which expression shall, where the context so requires or admits, include his personal representatives and assigns.

WHEREAS:

1. The Consultant, having represented that he has the required professional skills, and personnel and technical resources, have agreed to provide the services on the terms and conditions set forth in this contract;
2. The Client has requested the Consultant to provide services as stipulated under the terms of this Contract

**NOW THEREFORE** the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
2. The General Conditions of the Contract;
3. The Special conditions of the Contract;
4. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
5. The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
6. The scope of services and contract deliverables expected of the consultant shall be as stipulated in their technical proposal under this Contract

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective names as of the day and year above written.

For and on behalf of ……………….…………………………………Limited

By

…………………………………………………………………………………………………………………………………………..

**(Signature) Group Chief Executive Officer**

**……………………………………………………………………………………………………………………..**

**(Signature) Richard Karsan**

1. **GENERAL PROVISIONS**
   1. **Definitions**

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

“Applicable Law” means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;

“Commencement Date” means the date provided under Clause 2.2 of this Contract

“Contract” means the Form of Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed form of Contract;

“Foreign Currency” means the United States Dollars

“Contract Price” means the price to be paid for the performance of the Services in accordance with **Clause 6** here below;

“GC” Means the General Conditions of the Contract;

“Government” means the Government of the Republic of Kenya;

“Local Currency” means the Kenya Shillings;

* 1. **Law governing the Contract**

This Contract, its meaning and interpretation and the relationship between the Parties shall be governed by the laws of the Republic of Kenya.

* 1. **Language**

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.

* 1. **Notices**

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

* 1. **Location**

The location of the services to provided shall at the premises of the Client and, where the location of a particular task is not so specified, at such locations, whether in the Republic of Kenya, or elsewhere, as the Client may approve.

* 1. **Authorized Representatives**

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

1. **COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**
   1. **Effectiveness of Contract**

This Contract shall come into effect on the date of the Contract is signed by both Parties, and such other later date as may be stated in the Special Conditions.

* 1. **Commencement of Services**

The Consultant shall begin carrying out Services three (3) days after the Contract becomes effective or at such other date as may be specified in the Special Conditions.

* 1. **Expiration of Contract**

Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as specified in the Special Conditions.

* 1. **Modification**

Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties.

* 1. **Force Majeure**
     1. **Definition**

For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a party and which makes a party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

* + 1. **No Breach of Contract**

If a Party is prevented or delayed in the performance of any of its obligations under this Agreement by force majeure, and if that party gives prompt written notice thereof to the other party specifying the matters constituting force majeure together with such evidence as it can reasonably give and specifying that period for which it is estimated that such prevention or delay will continue, then the party shall, subject to the terms of this Agreement, be excused from the performance or the punctual performance (as the case may be) of that obligation as from the date of such notice for so long as such cause of prevention or delay shall continue;

* + 1. **Extension of Time**

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

* + 1. **Payments**

During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to be paid under the terms of this Contract for services offered until the suspension of services by reason of force majeure and thereafter for services offered after reactivating the service.

* 1. **Termination**
     1. **By the Client**

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

1. If the Consultant does not remedy a failure ion the performance of his obligations under the Contract within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
2. If the Consultant becomes insolvent or bankrupt;
3. If, as a result of force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
4. If the Consultant, in the judgement of the Client, has engaged in corrupt or fraudulent practices in competing for or executing the Contract.

For the purpose of this Clause;

“Corrupt Practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in Contract execution.

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

* + 1. **By the Consultant**

The Consultant may terminate this Contract by not less than (30) days’ written notice to the Client, such notice to be given after the occurrence of any of the following events;

1. If the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within sixty (60) days after receiving written notice from the Consultant that such payment is overdue; or
2. If, as a result of Force Majeure, the Consultant is unable to perform a material portion of the services for a period of not less than sixty (60) days.
   * 1. **Payment upon Termination**

Upon termination of this Contract pursuant to clauses 2.6.1 or 2.6.2 the Client shall make the following payments to the Consultant:

1. Remuneration pursuant to Clause 6 for services satisfactorily performed prior to the effective date of termination;
2. Except in the case of termination pursuant to paragraphs (a) and (b) of Clause 2.6.1, reimbursement of any reasonable costs incident to the prompt and orderly termination of the contract.
3. **OBLIGATIONS OF THE CONSULTANT**
   1. **General**

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

The consultant, in the provision of services shall apply the level of skill and experience which is appropriate to the tasks to which they ae allotted and the performance and Service Levels which they are required to achieve and who shall perform those tasks in a workmanlike and professional manner.

The Project Manager warrants that it has the necessary skills and expertise to complete the Consultancy services.

* 1. **Conflict of Interests**
     1. **Consultant not to Benefit from Commissions, discounts, Etc.**

1. The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant’s sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consult[s] and agents of either of them similarly shall not receive any such additional remuneration.
2. For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.
3. Where the Consultant as part of the services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.
   * 1. **Consultant and Affiliates Not to be Otherwise Interested in Project**

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

* + 1. **Prohibition of Conflicting Activities**

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

1. During the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or
2. After the termination of this Contract, such other activities as may be specified in the Special Conditions.
   1. **Confidentiality**

Neither Consultant , nor his sub consultant[s] and their personnel, either during the term of this Contract or two (2) years after the expiration of this Contract, shall disclose or otherwise reveal to any other persons or parties any confidential, financial or technical information without the approval of the other Party. The Parties agree to require their employees to comply with the requirements of this provision. The obligations or confidentiality shall not apply to any information that is in the public domain or is disclosed by law or authorised by mutual agreement of the parties.

* 1. **Insurance to be taken out by the Consultant**

The Consultant shall;

1. Take out and maintain and shall cause any sub consultant[s] to take out and maintain, at his own cost but on terms and conditions approved by the Client, insurance against the risks and for the coverage, as shall be specified in the Special Conditions; and
2. At the Client’s request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.
   1. **Records**

The Consultant shall keep and maintain until two years after the Contract has been completed records to the satisfaction of the Client of all expenditures which are reimbursable by the Client and of the hours worked and costs incurred by the consultant or in connection with any employees of the Consultant paid for by the client on a time charge basis. The Consultant shall on request afford the Client or his representatives such access to those records as may be required by the Client in connection with the Contract.

* 1. **Documents prepared by the Consultant to be the property of the Client**

All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultant in accordance with this Contract shall become and remain the property of the Client and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other party.

1. **CONSULTANT’S PERSONNEL**
   1. **Description of Personnel**

The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant’s Key Personnel are described in Appendix A.

* + 1. The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

1. **OBLIGATIONS OF THE CLIENT**
   1. **Assistance and Exemptions**

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

* 1. **Change in the Applicable Law**

If after the date of this Contract, there is any change in the Laws of the Republic of Kenya with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Consultant, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties and corresponding adjustments shall be made to the amounts referred to in Clause 6.2 (a) or (b), as the case may be.

1. **PAYMENTS TO THE CONSULTANT**
   1. **Lump-sum Remuneration**

The Consultant’s total remuneration shall not exceed the contract price and shall be a fixed including all staff professional fees, printing, communications and all other costs incurred by the Consultant in carrying out the Services described herein. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the parties have agreed to additional payments in accordance with Clause 2.4

* 1. **Contract Price**

The price payable in local currency **KES …………………………….** (Indicate in words).

* 1. **Payment for Additional services**

For the purposes of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in **Appendix A**

1. **SETTLEMENT OF DISPUTES**
   1. **Amicable Settlement**

The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this contract or its interpretation.

* 1. **Dispute Settlement**

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one party to the other party’s request for such amicable settlement may be referred by either Party to the arbitration and final decision of a single arbitrator to be agreed between the parties within 21 days from the date of declaration of dispute by either party.

Failing agreement to concur in the appointment of an Arbitrator within seven (7) days from the date a request from the applying party to the other party, the Arbitrator shall be appointed by any court of competent jurisdiction at the application of either party.

**II. SPECIAL CONDITIONS**

**Number of GC Clause Amendment of, and Supplements to, Clauses in**

**The General Conditions of Contract.**

**1.3 The Language is English**

1.4 The addresses are:

Client:

**…………………………………**

**…………………………………,**

**………………………………….**

**P.O Box …………………….**

**Nairobi, Kenya**

**Attention: ……………………**

**Email:**

**Consultant:**

**Richard Seth Karsan**

**P.O Box ………………….**

**Nairobi, Kenya**

**Email: …………………………..**

**Attention: Richard Seth…..**

**1.6** The Authorised Representatives are:

The Client:

………………………………………………..

………………………………………………..

For the Consultant

* 1. The date of commencement of services shall be **three (3) days after the date of the Contract becomes effective.**