

KENYA PORTS AUTHORITY



TENDER NO. KPA/044/2016-17/GMO

**REQUEST FOR PROPOSALS
CONSULTANCY SERVICES FOR REVIEW,
DESIGN AND IMPLEMENTATION OF
TERMINAL OPERATING SYSTEM (TOS)**

TENDER DOCUMENT

OCTOBER, 2016

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SECTION I - INVITATION TO TENDER

TENDER REF NO. KPA/044/2016-17/GMO

TENDER NAME: REQUEST FOR PROPOSALS – CONSULTANCY SERVICES FOR
REVIEW, DESIGN AND IMPLEMENTATION OF TERMINAL
OPERATING SYSTEM (TOS)

1. The Kenya Ports Authority now invites sealed Tenders from eligible tenderers to submit proposals for as per requirements detailed herein in the terms of reference.
2. Tendering will be conducted through the international Competitive Bidding procedures specified in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Disposal Regulations, 2006 and Amendment Regulations (2013) Nos. 106 and 114 and are open to all Tenderers as defined in the Regulations.
3. Enquiries can be made via email address: ctcsecretary@kpa.co.ke.
4. All Tenders in **one original** properly filled in plus **Two (2) copies and an electronic copy in a flash disk or CD ROM**, and enclosed in plain sealed envelopes must be delivered to the address below and marked:

TENDER NO. KPA/044/2016-17/GMO

REQUEST FOR PROPOSALS – CONSULTANCY SERVICES FOR REVIEW,
DESIGN AND IMPLEMENTATION OF TERMINAL OPERATING SYSTEM
(TOS)

**“DO NOT OPEN BEFORE 1000HOURS EAST AFRICAN TIME ON THURSDAY
27TH OCTOBER, 2016”**

Addressed:

**THE HEAD OF PROCUREMENT AND SUPPLIES
KENYA PORTS AUTHORITY
KIPEVU HEADQUARTERS 4TH FLOOR
FINANCE BLOCK III, DOOR BLK-3.4.3
KILINDINI MOMBASA
Phone: +254 (41) 2113600/ 2113999
E-mail: ctcsecretary@kpa.co.ke**

5. Completed tenders shall be placed in Tender Box No. 7 located at the **BUS TERMINUS, PORT MAIN PEDESTRIAN GATE NO.8, KILINDINI, MOMBASA BEFORE 1000HOURS EAST AFRICAN TIME ON THURSDAY 27TH OCTOBER, 2016** or Bulky tenders shall be submitted at the office of **Head of Procurement & Supplies located on the 4th floor of office Block III at the Kenya Ports Authority Headquarters, Kipevu, Kilindini Mombasa BEFORE 1000HOURS ON THURSDAY 27TH OCTOBER, 2016.**
6. Prices quoted shall be in Kenya Shillings and /or United States Dollars and should be net inclusive of all taxes and delivery and shall remain valid for 90 days from the opening date of the tender. The

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RFP Review Design and Implementation of TOS

applicable exchange rate shall be the Central Bank Exchange rate prevailing on the date of tender opening.

7. Tenders will be opened promptly after **1030Hours ON THURSDAY 27TH OCTOBER, 2016** in the presence of Tenderers' representatives who choose to attend the opening at the Procurement Conference Room located at the **New Service Area (Kapenguria)**, in the former Supplies Accounts office.

Yobesh Oyaro
HEAD OF PROCUREMENT AND SUPPLIES
FOR: MANAGING DIRECTOR



VISION, MISSION, & CORE VALUES

Vision

World class seaports of choice.

Mission

To facilitate and promote global maritime trade through the provision of competitive port services.

Values

Customer Focus: Service excellence is key to our operations and we endeavor to exceed customer expectations.

Integrity: We uphold fairness, honesty, professionalism and transparency in all our undertakings.

Teamwork: We embrace team spirit in all that we do.

We Care: We care for our staff, the communities around us and are sensitive to the environment.



HEALTH, SAFETY AND ENVIRONMENT POLICY STATEMENT

The Kenya Ports Authority recognizes and appreciates the importance of Health, Safety and Environment in the organization.

The Authority therefore places Health, Safety and Environment matters as important Boardroom Agenda.

To translate this commitment into actions, the Authority shall adopt a health, safety and environment policy that shall ensure:

1. Compliance with all relevant statutory instruments in all matters of Health, Safety and Environment.
2. Appropriate consideration of relevant international conventions and recommendations.
3. Formulation and compliance with rules, regulations and guidelines on matters of Health, Safety and Environment.
4. All reasonably practicable precautions are taken to safeguard the safety and health of all employees and Port users.
5. Appropriate systems for providing adequate information and instructions to all cadres of employees on risks to their health and safety are in place.
6. That all work places and equipment/plant are safe and regularly inspected.
7. All employees and Port Users assume defined responsibilities in matters of health, safety and environment in conformity with this policy.
8. Appropriate training for all employees to enhance their performance is provided.
9. That all Suppliers comply with Health, Safety and Environment rules, regulations and guidelines.
10. Adequate provision for prevention and control of fires and proper use of Firefighting appliances.
11. Adequate provision for prevention and control of environmental pollution.
12. That Environmental Impact Assessment is carried out for all projects likely to have an impact on the environment.
13. Provision and promotion of First Aid services and activities.
14. Contravention of the Health, Safety and Environment Management System attracts severe disciplinary action including dismissal and/or prosecution.
15. Review of the Health, Safety and Environment Management System to conform to changing trends.

(Signed)
Catherine Mturi-Wairi
MANAGING DIRECTOR



QUALITY POLICY STATEMENT

Kenya Ports Authority is committed to provision of Quality Port Services to our customers' satisfaction. We undertake to facilitate and promote global maritime trade by:

- **Complying with ISO 9001 Quality Management System (QMS) Standards,**
- **Continually improving and effectively implementing our QMS processes and capabilities,**
- **Ensuring that Quality Objectives associated with the Quality Policy are reviewed annually via departmental Quality Operating Procedures.**

Quality Objectives

The Management has established quality objectives, including those needed to meet the requirements, at relevant functional units in the Authority. The quality objectives are measurable and consistent with the quality policy.

The Authority's broad quality objectives are;

1. ***Improve service delivery and customer satisfaction.***
2. ***Enhance operational efficiency.***
3. ***Improve productivity of internal resources.***

These objectives are reviewed on an annual basis in accordance with the Corporate Business Plan and Signed Performance Contract as cascaded to relevant functions.

(Signed)
Catherine Mturi-Wairi
MANAGING DIRECTOR

SECTION II – INFORMATION TO CONSULTANTS (ITC)

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SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

- 2.1.1 The Client named in the Appendix to “ITC” will select a firm in accordance with the method of selection detailed in the appendix. The method of selection shall be as indicated by the procuring entity in the Appendix to ITC.
- 2.1.2 The consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Appendix “ITC” for consulting services required for the assignment named in the said Appendix. A Technical Proposal only may be submitted in assignments where the Client intends to apply standard conditions of engagement and scales of fees for professional services which are regulated as is the case with Building and Civil Engineering Consulting services. In such a case the highest ranked firm of the technical proposal shall be invited to negotiate a contract on the basis of scale fees. The proposal will be the basis for Contract negotiations and ultimately for a signed Contract with the selected firm.
- 2.1.3 The consultants must familiarize themselves with local conditions and take them into account in preparing their proposals. To obtain first-hand information on the assignment and on the local conditions, consultants are encouraged to liaise with the Client regarding any information that they may require before submitting a proposal and to attend a pre-proposal conference where applicable. Consultants should contact the officials named in the Appendix “ITC” to arrange for any visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
- 2.1.4 The Procuring entity will provide the inputs specified in the Appendix “ITC”, assist the firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.
- 2.1.5 Please note that (i) the costs of preparing the proposal and of negotiating the Contract, including any visit to the Client are not reimbursable as a direct cost of the assignment; and (ii) the Client is not bound to accept any of the proposals submitted.
- 2.1.6 The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate.

2.2 Clarification and Amendment of RFP Documents

- 2.2.1 Consultants may request a clarification of any of the RFP documents only up to seven [7] days before the proposal submission date. Any request for clarification must be sent in writing by paper mail, cable, telex, facsimile or electronic mail to the Client’s address indicated in the Appendix “ITC”. The Client will respond by cable, telex, facsimile or electronic mail to such requests and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all invited consultants who intend to submit proposals.
- 2.2.2 At any time before the submission of proposals, the Client may for any reason, whether at his own initiative or in response to a clarification requested by an invited firm, amend the RFP. Any amendment shall be issued in writing through addenda. Addenda shall be sent by mail, cable, telex or facsimile to all invited consultants and will be binding on them. The Client may at his discretion extend the deadline for the submission of proposals.

2.3 Preparation of Technical Proposal

2.3.1 The Consultants proposal shall be written in English language

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

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

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

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

- (i) A brief description of the firm's organization and an outline of recent experience on assignments of a similar nature. For each assignment the outline should indicate *inter alia*, the profiles of the staff proposed, duration of the assignment, contract amount and firm's involvement.
- (ii) Any comments or suggestions on the Terms of Reference, a list of services and facilities to be provided by the Client.
- (iii) A description of the methodology and work plan for performing the assignment.
- (iv) The list of the proposed staff team by specialty, the tasks that would be assigned to each staff team member and their timing.
- (v) CVs recently signed by the proposed professional staff and the authorized representative submitting the proposal. Key information should include number of years working for the firm/entity and degree of responsibility held in various assignments during the last five (5) years.

- (vi) Estimates of the total staff input (professional and support staff staff-time) needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.
- (vii) A detailed description of the proposed methodology, staffing and monitoring of training, if Appendix “A” specifies training as a major component of the assignment.
- (viii) Any additional information requested in Appendix “A”.

2.3.5 The Technical Proposal shall not include any financial information.

2.4 Preparation of Financial Proposal

- 2.4.1 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms Section IV. If appropriate these costs should be broken down by activity.
- 2.4.2 The Financial Proposal should clearly identify as a separate amount, the local taxes **(where applicable)**, duties, fees, levies and other charges imposed under the law on the consultants, the sub-consultants and their personnel, unless Appendix “A” specifies otherwise.
- 2.4.3 Consultants shall express the price of their services in Kenya Shillings.
- 2.4.4 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.
- 2.4.5 The Proposal must remain valid for 90 days after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. The Client will make his best effort to complete negotiations within this period. If the Client wishes to extend the validity period of the proposals, the consultants shall agree to the extension.

2.5 Submission, Receipt, and Opening of Proposals

- 2.5.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no interlineation or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorised to sign the proposals.
- 2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix ITC. Each Technical Proposal and Financial Proposal shall be marked **“ORIGINAL”** or **“COPY”** as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.
- 2.5.3 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked **“TECHNICAL PROPOSAL,”** and the original and all copies of the Financial Proposal in a sealed envelope clearly marked **“FINANCIAL PROPOSAL”** and warning: **“DO NOT OPEN WITH THE TECHNICAL PROPOSAL”**. Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated in the Appendix “ITC” and

be clearly marked, **“DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.”**

- 2.5.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix “ITC”. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant unopened.
- 2.5.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the opening committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department up to the time for public opening of financial proposals.

2.6 Proposal Evaluation General

- 2.6.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated in the Appendix “ITC”. Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant’s proposal.
- 2.6.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

2.7 Evaluation of Technical Proposal (Contents of the Technical Submission)

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

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

Total Points 100

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

2.8 Public Opening and Evaluation of Financial Proposal

- 2.8.1 After Technical Proposal evaluation, the Client shall notify those consultants whose proposals did not meet the minimum qualifying mark or were considered

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

- 2.8.2 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend. The name of the consultant, the technical. Scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.
- 2.8.3 The evaluation committee will determine whether the financial proposals are complete (i.e. whether the consultant has costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced items shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.
- 2.8.4 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.
- 2.8.5 The formulae for determining the Financial Score (Sf) shall, unless an alternative formulae is indicated in the Appendix “ITC”, be as follows:-
- $Sf = 100 \times \frac{Fm}{F}$ where Sf is the financial score; Fm is the lowest priced financial proposal and F is the price of the proposal under consideration. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T=the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; $T + p = 1$) indicated in the Appendix. The combined technical and financial score, S, is calculated as follows:- $S = St \times T \% + Sf \times P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 2.8.6 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

- 2.8.7 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.8.8 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price
- 2.8.9 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.9 Negotiations

- 2.9.1 Negotiations will be held at the same address as “address to send information to the Client” indicated in the Appendix “ITC”. The aim is to reach agreement on all points and sign a contract.
- 2.9.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and bar charts indicating activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the “Description of Services” and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.
- 2.9.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 2.9.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.
- 2.9.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will initial the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.
- 2.9.6 The procuring entity shall appoint a team for the purpose of the negotiations.

2.10 Award of Contract

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

- 2.10.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix “A”.
- 2.10.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.
- 2.10.4 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.10.5 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 2.10.6 To qualify for contract awards, the tenderer shall have the following:
 - (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
 - (b) Legal capacity to enter into a contract for procurement
 - (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
 - (d) Shall not be debarred from participating in public procurement.

2.11 Confidentiality

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

2.12 Corrupt or fraudulent practices

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

APPENDIX TO INFORMATION TO CONSULTANTS

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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1 The name of the Client is	The name of the Client is: KENYA PORTS AUTHORITY,
2.1.1 The method of selection is:	QUALITY AND COST BASED SELECTION
2.1.2 Technical and Financial Proposals are requested:	Yes
The name, objectives, and description of the assignment are:	TENDER NO. KPA/044/2016-17/GMO REQUEST FOR PROPOSALS CONSULTANCY SERVICES FOR REVIEW, DESIGN AND IMPLEMENTATION OF TERMINAL OPERATING SYSTEM (TOS)
2.1.3 A pre-proposal conference will be held	No.
The name(s), address(es) and telephone numbers of the Client's official(s) are:	THE HEAD OF PROCUREMENT AND SUPPLIES KENYA PORTS AUTHORITY HEADQUARTERS, FINANCE BLOCK, 4TH FLOOR, DOOR BLK-3.4.3 <u>KILINDINI, MOMBASA</u> Tel +254 041 2113600 e-mail: <u>ctcsecretary@kpa.co.ke</u>
2.1.4 The Client will provide the following inputs:	Limited office accommodation and counterpart staff.
2.1.5 (ii) The estimated number of professional staff months Required for the assignment is:	see terms of reference for guidance
(iv) The minimum required experience of proposed professional staff is	see terms of reference for guidance

2.1.6 (vii) Training is a specific component of this assignment:	Yes
(viii) Additional information in the Technical Proposal includes:	-N/A
2.1.7 Taxes:	Proposal should be inclusive of <u>all taxes</u>
2.5.2	The number of copies to be submitted is: One (1) Original and Two (2) Copies.
2.3.5 2.5.3 2.5.5 2.5.4 The proposal submission address is:	<p>The tenderer shall seal the original tender in an inner envelope and an outer envelope. The inner envelope shall itself contain two envelopes, Envelopes A and B.</p> <p>Envelope A shall contain the Technical submission and shall be clearly marked “Envelope A – Technical Submission”. Envelope A shall contain NO indication of the tender price or other financial information of the bid and: -</p> <ol style="list-style-type: none"> Shall have contents pages clearly indicating Sections and Page Numbers (Mandatory). Shall be firmly bound (Mandatory). Shall have pages in the whole document numbered in the correct sequence and initialed (Mandatory). <p>In addition to the above requirements, the technical submission shall contain the following mandatory requirements:</p> <ol style="list-style-type: none"> Particulars of Tendering Company to include <ol style="list-style-type: none"> Company background, Firm’s Organization Structure, Valid and current Tax Compliance Certificate from the country of domicile. Certificate of Incorporation for the company Duly filled, signed and stamped Anti-Corruption Declaration Commitment/ Pledge (Mandatory). Duly filled, signed and stamped Confidential Business Questionnaire (Mandatory). Duly filled, signed and stamped Declaration Form (Mandatory).

	<p>5. Evidence of possessing a valid and current professional indemnity cover for the proposed key personnel (Mandatory).</p> <p>6. Certified Audited Accounts for the Company (for the last two years (2013 & 2014 or 2014 & 2015) (Mandatory)).</p> <p>The two sealed envelopes shall then be sealed in an outer envelope bearing the tender number and name and a statement ‘ DO NOT OPEN BEFORE 1000 HOURS EAST AFRICAN TIME ON THURSDAY 27TH OCTOBER, 2016’</p> <p>Only tenders that are responsive to the mandatory requirements and have attained the pass mark of 75% in the technical evaluation shall have their financial submission opened.</p> <p>The tenderer shall submit one original properly filled in plus Two (2) copies and an electronic copy in a flash disk or CD ROM.</p> <p>The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. The outer envelope/package shall bear the tender number and description and shall be addressed :</p> <p>THE HEAD OF PROCUREMENT AND SUPPLIES KENYA PORTS AUTHORITY HQRS, FINANCE BLOCK, 4TH FLOOR, DOOR BLK-3.4.3 KILINDINI, MOMBASA Phone: +254 (41) 2113600/ 2113999 Email: ctcsecretary@kpa.co.ke</p> <p>Completed tenders shall be placed in Tender Box No. 7 located at the BUS TERMINUS, PORT MAIN PEDESTRIAN GATE NO.8, KILINDINI, MOMBASA BEFORE 1000HOURS EAST AFRICAN TIME ON THURSDAY 27TH OCTOBER, 2016 or</p> <p>Bulky tenders shall be submitted at the office of Head of Procurement & Supplies located on the 4th floor of office Block III at the Kenya Ports Authority Headquarters, Kipevu, Kilindini Mombasa BEFORE 1000HOURS ON THURSDAY 27TH OCTOBER, 2016.</p>
2.5.2 Proposals must be submitted no later than the following	<p>BEFORE 1000HOURS ON THURSDAY 27TH OCTOBER, 2016</p> <p>Bidder or their representative may attend the opening Procurement Conference Room located at the New Service Area (Kapenguria),</p>

date and time:	in the former Supplies Accounts office promptly after 1030HOURS ON THURSDAY 27TH OCTOBER, 2016
2.6.1 The address to send information to the Client is: _____	THE HEAD OF PROCUREMENT AND SUPPLIES KENYA PORTS AUTHORITY FINANCE BLOCK, 4TH FLOOR, DOOR BLK- 3.4.3 <u>KILINDINI, MOMBASA</u> Tel +254 041 2113600 Email : ctcsecretary@kpa.co.ke
2.6.3 The minimum technical score required to pass	80%
2.7.1 Alternative formulae for determining the financial scores is the following:	<p>The weights given to the Technical and Financial Proposals are: T= _____ (0.80) P= _____ (0.20)</p> <p style="text-align: right;"><u>Points</u></p> <p>(i) Experience of the consultants relevant to the assignment:</p> <p>a) Experience of international projects of comparable size, [25]</p> <ul style="list-style-type: none"> Complexity and technical specialty. Attach evidence of at least five (5) similar assignments in the last Five (5) years using the format provided; contracts documents, purchase/service orders, payment remittance from clients and include names and contact addresses of these clients. <p>b) Specific experience in Terminal Operating Systems integration [10]</p> <p>c) Experience in developing countries Comparable under conditions [5]</p> <p style="text-align: right;">Total points for criterion (i) [40points]</p> <p>(ii) Adequacy of the proposed methodology and work plan</p> <p>In responding to Terms of Reference:</p> <p>a) Technical approach and methodology [20] b) Work plan [5] c) Organization and staffing [5]</p> <p style="text-align: right;">Total points for criterion (ii): [30 points]</p>

	<p>(iii) Key Experts' qualification and competence for assignment:</p> <p>a) Team Leader/Project Manager [12]</p> <p>b) Deputy Team Leader/ Co-project Manager (Could be one of the experts listed below) [8]</p> <p>Other experts (weight of for each expert) [10 points]</p> <ol style="list-style-type: none"> 1. Business analyst(s) 2. Testing specialist 3. System Security and Infrastructure specialist 4. Data migration specialist 5. Change management specialist 6. Quality Assurance Specialist 7. Others <p>Total points for criterion (iii) [30 points]</p> <p><i>The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following sub-criteria and relevant percentage weights:</i></p> <ol style="list-style-type: none"> 1) General qualifications [weight30%] 2) Adequacy and relevance for the assignment and particular experience in TOS and system integration [weight 50 %] 3) Familiarity with the language and the conditions of the Country [Weight 20%] <p style="text-align: right;"><i>Total weight: 100%</i></p> <p>(iv) Suitability of the transfer of knowledge (training) program(optional):</p> <ol style="list-style-type: none"> a) Relevance of training program [3 points] b) Training approach and methodology [3 points] c) Qualifications of Key Experts and trainers [4 points] <p>Total points for criterion (iv): [10 points]</p> <p>Total points for the four criteria: 110 points</p> <p>The minimum technical score (St) required is: _88_Points</p>
2.9.2 The assignment is expected to commence on	immediately after award and signing of contract
2.10 Award of Contract	<p>The Contract shall be awarded to the bidder with the highest combined technical and financial score.</p> <p>The Authority may negotiate with the first bidder on the terms and</p>

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RFP Review Design and Implementation of TOS

	conditions of engagement.
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SECTION III: - TECHNICAL PROPOSAL

Notes on the preparation of the Technical Proposals

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

SECTION III- TECHNICAL PROPOSAL

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1. TECHNICAL PROPOSAL SUBMISSION FORM

[_____ Date]

To: _____ [Name and address of Client)

Ladies/Gentlemen:

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

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

We remain,

Yours sincerely,

_____ [Authorized Signature]:

_____ [Name and Title of Signatory]

:

_____ [Name of Firm]

:

_____ [Address:]

2. FIRM'S REFERENCES

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

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

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

Firm's Name: _____

Name and title of signatory; _____

(May be amended as necessary)

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

On the Terms of Reference:

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

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

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

**4. DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR
PERFORMING THE ASSIGNMENT**

5. KEY PERSONNEL DETAILS

No	Designation	Name	Nationality	Summary of qualifications and experience
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

I certify that the above information is correct.

.....

(Title)

(Authorized Signature)

(Date)

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

1. **Proposed Position** *[only one candidate shall be nominated for each position]:* _____
2. **Name of Expert** *[insert full name]:* _____
Current Address : *[Postal, E-mail and Telephone]:* _____
3. **Date of Birth:** _____ **Nationality:** _____
4. **Education** *[indicate college/university and other specialized education of expert, giving names of institutions, degrees obtained, and dates of obtainment]:* _____

5. **Current Membership to Professional Associations with evidence:** _____

6. **Other Trainings** *[indicate significant training since degrees under 5 - Education were obtained]:*

7. **Countries of Work Experience:** *[list countries where expert has worked in the last ten years]:*

8. **Languages** *[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:* _____

9. **Employment Record** *[Starting with present position, list in reverse order every employment held by expert since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:*

From [Year]: ____ **To [Year]:** _____

RFP Review Design and Implementation of TOS

Employer: _____

Positions held: _____

<p>10.Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p>11.Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the expert has been involved, indicate the following information for those assignments that best illustrate the expert's capability to handle the tasks listed in line 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
--	---

12. Certification:

I, the undersigned, certify to the best of my knowledge and belief that

- (i) This CV correctly describes my qualifications and my experience;
- (ii) In the absence of medical incapacity, I will undertake this assignment for the duration and in terms of the inputs specified for me in the Personnel Schedule in Form provided team mobilization takes place within the validity of this proposal or any agreed extension thereof;
- (iii) I am committed to undertake the assignment within the validity of Proposal;
- (iv) I am not part of the team who wrote the terms of reference for this consulting services assignment;

I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

 [Signature of expert]¹ Date: _____
Day/Month/Year

Full name and Signature of authorized representative: _____
 [Signature of authorized representative of the firm]¹

This CV shall be signed by an authorized representative of the Consultant provided that if the Consultant's proposal is ranked first, a copy of the CV signed by the expert and/or specialist must be submitted to the Client prior to the commencement of contract negotiations

7. TIME SCHEDULE FOR PROFESSIONAL PERSONNEL

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

Reports Due: _____

Activities Duration: _____

Signature: _____
(Authorized representative)

Full Name: _____

Title: _____

Address: _____

8. ACTIVITY (WORK) SCHEDULE

(a). Medical Examination Work Schedule.

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

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

(b). Completion and Submission of Reports

REPORT	Date
Draft Report	
Final Report	

SECTION IV: - FINANCIAL PROPOSAL

Notes on preparation of Financial Proposal

- 4.1 The Financial quotations prepared by the consultant should list the fee for professional service to be offered per each person. The financial quotations shall be in Kenya Shillings.
- 4.2 The financial quotation should be prepared using the Standard forms provided in this part.

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1. FINANCIAL QUOTATION SUBMISSION FORM

_____ [Date]

To: _____

[Name and address of Client]

Ladies/Gentlemen:

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

We remain,

Yours sincerely,

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

2. SUMMARY OF COSTS

Costs	Currency(ies)	Amount(s)
Total Amount of Financial Proposal		

3. DETAILED BREAKDOWN OF PRICE PER ACTIVITY

Activity NO.: _____	Description: _____
Price Component	Amount(s)

Note: The Consultants shall be required to summarize and itemize their bid price into distinct components as derived from the terms of reference which shall form basis of contract / negotiations :

1) Component 1 to cover costs related to: the review assignment and subsequent report / recommendations

Under this item The Terms of Reference (TORs) for the independent consultant will include but not limited to;

- Carry out a Project Risk Assessment
- Prepare detailed cost benefit analysis and financial implications
- Review system requirements documentation of the existing Terminal Operating System (as-is processes)
- Undertake business process re-engineering (to-be processes)
- Identify best practices in Terminal Operating Systems and develop key performance indicators

RFP Review Design and Implementation of TOS

- f) Arrange visits to the appropriate reference sites.
- g) Evaluate and advice on adequacy of the Information Communication Technology (ICT) infrastructure (servers, network, data capture gadgets, etc.)

Recommend options / way forward

2) Component 2 to cover costs related to / based on option selected by KPA

With sub options for

- a. Upgrade only**
 - b. procurement of separate system**
- h) Design proposed TOS and assists the Authority in selection of appropriate system.
 - i) Identify the training requirements and end user support
 - j) Design and implement change management program for the TOS
 - k) Design an appropriate structure to support the operation of the new TOS.
 - l) Provide Quality Assurance services during the system implementation, training and post implementation support
 - m) Assist in resolving any other emerging issues during the implementation.

** Where the consultant recommends an Upgrade only as opposed to procurement of new system the distinction of cost elements should also be distinctly identified ideally on cost and re-imbursables on a time based contract model*

-

4. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount

SECTION V: - TERMS OF REFERENCE

TERMS OF REFERENCE :CONSULTANCY SERVICES FOR REVIEW, DESIGN AND IMPLEMENTATION OF TERMINAL OPERATING SYSTEM (TOS)

Contents

1. Introduction
2. Objectives
3. Scope and Deliverables
4. Deliverables
5. Methodology
6. Reporting
7. Time Frame
8. Coordination
9. Required skill and experience

1. Introduction and Background

The Port of Mombasa is the principal Gateway to the Eastern African region serving the wider hinterland consisting of Kenya, Uganda, Rwanda, Burundi, South Sudan, Northern Tanzania, Eastern Democratic Republic of Congo and Somalia. The efficiency of the Port has a major impact on the economies of the countries it serves and can unlock the region's growth potential if operated efficiently and developed in step with growing trade demands.

In 2008, Kenya Ports Authority (KPA) installed the Kilindini Waterfront Automated Terminal Operations System (KWATOS) version 7.1 which allowed key port operational areas to be automated including container, conventional cargo and marine operations. Over the past eight years, technological changes of the TOS have seen upgrade of the TOS version from 7.1 to 7.7 that moved away from client to web-based technology.

Adoption of a TOS was in accordance with the KPA automation roadmap to attain e-port status by 2010 that followed a 3 step approach which entailed automation of the:

1. Back-office operations through adoption of Software Application Product (SAP) that is an Enterprise Resource Planning (ERP) tool.
2. Front office or operational activities through a Terminal Operating System (TOS) that covered Mombasa, Nairobi and Kisumu Inland Container Depots.
3. Community Based System (CBS).

Whereas major upgrades have been made for SAP with investments in 2010 and 2013 that led to upgrading of both the physical and functional aspects of the SAP systems, the same is yet to be carried out for the TOS. Over the operating period, It is worth pointing out that various KWATOS components have been customized or developed in response to changing business requirements or directives received from the national government e.g. integration with National Single Window System (NSWS), Kenya Revenue Authority's System (Simba System) and the Single Customs Territory (SCT).

The Port of Mombasa has over the last three years recorded significant growth in traffic volumes. Overall, the Port recorded 26.215 million tons of cargo in 2014/15 from 21.814 million tons handled in 2012/13 representing a growth of 9.6 %. Container traffic is increasing at a higher rate of 11.9% p.a. recording 1,078,803 TEUs in 2014/15 up from 861,295 TEUs in 2012/13. In the same period transit traffic also grew by 7.1% p.a. of which 93.0% composed of imports while exports occupying 7.0% of the total transit. The unprecedented growth in traffic has exerted pressure on the existing ICT infrastructure. It is for this reason that KPA is seeking to engage a suitably qualified consultant to guide the Authority appropriately.

2. Objectives

The main objective of this consultancy is to undertake a review of the existing TOS, ICT infrastructure, carry out Business Process Re-engineering (BPR) in accordance with international best practices and guide the Authority to effectively implement a TOS that addresses its business needs and respond to emerging trends.

The Consultant shall be expected to provide implementation and post implementation quality assurance services.

3. Scope of Work

The Terms of Reference (TORs) for the independent consultant will include but not limited to;

Phase I : Review Phase

- (a) Carry out a Project Risk Assessment
- (b) Prepare detailed cost benefit analysis and financial implications

- (c) Review system requirements documentation of the existing Terminal Operating System (as-is processes)
- (d) Undertake business process re-engineering (to-be processes)
- (e) Identify best practices in Terminal Operating Systems and develop key performance indicators
- (f) Arrange visits to the appropriate reference sites.
- (g) Evaluate and advice on adequacy of the Information Communication Technology (ICT) infrastructure (servers, network, data capture gadgets, etc.)

Output: report and recommendations on course of action for KPA to choose and approve or otherwise

Phase II Based on option from I above

- (h) Design proposed TOS and assist the Authority in selection of appropriate system *including cost benefit analysis and option to upgrade and / or procure new system .*
- (i) Identify the training requirements and end user support
- (j) Design and implement change management program for the TOS
- (k) Design an appropriate structure to support the operation of the new TOS.

Phase III

- (l) Bid assistance
- (m) Provide Quality Assurance services during the system implementation, training and post implementation support
- (n) Assist in resolving any other emerging issues during the implementation.

4. Deliverables

The deliverables are in three phases;

- Phase I –
 - **Inception Report,**
 - **implementation road map,**
 - **Business process and infrastructure Requirements’ definition,**
 - **Review recommendations based on (a) to (g) above**
- Phase II

- **Detailed System review and design report with options (h - i) above**
- **Need**
- Phase III – **bid assistance, system selection and contracting**
- **Project management and provision of Quality Assurance services over implementation of the selected port terminal system in phase I**

The consultants should however note that the phases are mutually interdependent and at each Point decision as to what options shall be undertaken next would require review of previous phase outputs and recommendations and approval by KPA management.

th

As detailed in the bidding forms

5. Methodology

In drafting the methodology, the consultant is expected to understand their understanding of the background and context of the assignment.

6. Reporting

The consultant will report to the KPA General Manager –Operations and a designated Project Manager

7. Time Frame

The expected process and timelines are estimated as follows:

- i. Tendering – 2 months
- ii. Contract signing – 1 months
- iii. Consultant to study system – 3 months
- iv. Consultant to assist in implementation of the system – 18 months

The total duration for the procurement of the new system is estimated to be at most 24 calendar months.

8. Coordination

The Project Implementation Team (PIT) will coordinate the work of the consultants and facilitate access to the port, necessary information and data, and documents; arrange for meetings with KPA and other stakeholders and provide any other support where necessary.

9. Required Skill & Experience

The consultancy requires the services of the following competent, experienced, specialized persons with the right skills and qualifications as tabulated below;

No	Qualifications and experience of key staff for the assignment
	<p>The lead consultant must have worked as Management Consultant for at least 15 years in a consultancy firm or in a large organization in selection, implementing and auditing ICT systems. He or she must also be holder of a Masters and Bachelor's degree in related field (e.g. Computer science, IT, Project Management, Business Administration etc.).</p> <p>Team Leader / Deputy</p> <ul style="list-style-type: none"> • Masters and Bachelor's Degree in related field • PMP/PRINCE 2 certifications • Experience in project management and project assurance: • Similar Assignments in last 10 years • <i>Deputy team leader shall have at least 8 years' experience</i> <p>Business analyst(s)</p> <ul style="list-style-type: none"> • Degree in related field • Certified Business Analyst • Demonstrated knowledge of port operations • Experience in port operations, customs procedures, System integration, project management and project assurance: • Similar Assignments in last 5 years <p>Testing specialist</p> <ul style="list-style-type: none"> • Degree in related field • Certified Software Tester by the International Software Testing Qualifications Board (ISTQB) or relevant testing certification • Experience in software testing: • Similar Assignments in last 5 years <p>System Security and Infrastructure specialist</p> <ul style="list-style-type: none"> • Degree in related field • CISA, Certified Ethical Hacker, ITIL, Certified ISO 27001 Lead Auditor, Disaster Recovery Certification • Experience in IT audit and penetration testing: • Similar Assignments in last 5 years

	<p>Data migration specialist</p> <ul style="list-style-type: none"> • Degree in related field • CISM, CRISC specialist with CISA certification will have an added advantage • Experience in data migration: • Similar Assignments in last 6 years <p>Change management specialist</p> <ul style="list-style-type: none"> • Degree in related field • Certified Change Management Practitioner, CISA • Experience in change management: • Similar Assignments in last 5 years <p>Quality Assurance Specialist</p> <ul style="list-style-type: none"> • Degree in related field • Certified Quality Assurance Practitioner • Experience in Quality Assurance management • Similar Assignments in last 10 years
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SECTION VI: STANDARD FORMS OF CONTRACT

ANNEX I

STANDARD FORM OF CONTRACT

FOR

CONSULTING SERVICES

(FOR INFORMATION ONLY)

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FORM OF CONTRACT

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

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

WHEREAS

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

NOW THEREFORE the Parties hereto hereby agree as follows:

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

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RFP Review Design and Implementation of TOS

- (b) The Client shall make payments to the Consultant in accordance with the provisions of the Contract.

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

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

[full name of Client's authorized representative] _____

[title] _____

[signature] _____

[date] _____

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

[full name of Consultant's authorized representative] _____

[title] _____

[signature] _____

[date] _____

II. GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions

- (a) Unless the context otherwise requires, the following terms whenever used in this Contract shall have the following meanings
- (b) “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;
- (c) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract;
- (d) “Contract Price” means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- (e) “Foreign Currency” means any currency other than the Kenya Shilling;
- (f) “GC” means these General Conditions of Contract;
- (g) “Government” means the Government of the Republic of Kenya;
- (h) “Local Currency” means the Kenya Shilling;
- (i) “Member”, in case the Consultant consists of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract;
- (j) “Party” means the Client or the Consultant, as the case may be and “Parties” means both of them;
- (k) “Personnel” means persons hired by the Consultant or by any Sub consultant as employees and assigned to the performance of the Services or any part thereof;
- (l) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (m) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- (n) “Sub consultant” means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

1.2 Law

Governing

the Contract

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

1.3 Language

This Contract has been executed in English language which shall be the

binding and controlling language for all matters relating to the meaning or interpretation of this Contract

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

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

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

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

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC.

2.2 Commencement of Services The Consultant shall begin carrying out the Services Thirty (30) days after the date the Contract becomes effective or at such other date as may be specified in the SC.

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

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

II.5 Force Majeure For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.1 Definition

2.5.2 No Breach of Contract The failure of a Party to fulfill any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable

precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension Of Time

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

2.5.4 Payments

During the period of his inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by him during such period for the purposes of the Services and in reactivating the Service after the end of such period.

II.6 Termination
2.6.1 By the Client

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

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

For the purpose of this clause;

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

“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. If the Client in his sole discretion decides to terminate this Contract.

2.6.2 By the

The Consultant may terminate this Contract by not less

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

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

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

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

3. OBLIGATIONS OF THE CONSULTANT

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

- 3.2 Conflict of Interests**
- (i) The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services and the Consultant shall not accept for his own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consultant[s] and agents of either of them similarly shall not receive any such additional remuneration.
 - (ii) For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as
- 3.2.1 Consultant Not to Benefit from Commissions, Discounts, Etc.**

his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.

- (iii) Where the Consultant as part of the Services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.

3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and his affiliates, as well as any 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.

3.2.3 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:

- (a) during the term of this Contract, any business or professional activities in the Republic of Kenya which would conflict with the activities assigned to them under this Contract; or
- (b) after the termination of this Contract, such other activities as may be specified in the SC.

3.3 Confidentiality

The Consultant, his sub consultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

3.4 Insurance to be Taken Out by the Consultant

The Consultant (a) shall take out and maintain and shall cause any sub consultant[s] to take out and maintain, at his (or the sub consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Consultant's Actions Requiring Client's Prior Approval

The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions;

- (a) entering into a subcontract for the performance of any part of the Services,
- (b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Sub consultants").

3.6 Reporting Obligations

The Consultants shall submit to the Client the reports and documents specified in Appendix A in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents prepared by the Consultant to Be the Property of the Client

All plans, drawings, specifications, designs, reports and other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Client and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other Party.

4. CONSULTANT'S PERSONNEL

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub consultants listed by title as well as by name in Appendix C are hereby approved by the Client.

4.2 Removal and/or Replacement Of Personnel

- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
- (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Client has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
- (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions

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

5.2 Change in the Applicable Law

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

5.3 Services and

The Client shall make available to the Consultant the Services and

Facilities Facilities listed under Appendix F.

6. PAYMENTS TO THE CONSULTANT

6.1 Lump-Sum Remuneration The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, Sub consultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

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

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

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

6.5 Interest on Delayed Payment Payment shall be made within thirty (30) days of receipt of invoice and the relevant documents specified in Clause 6.4. If the Client has delayed payments beyond thirty (30) days after the due date hereof, simple interest shall be paid to the Consultant for each day of delay at a rate three percentage points above the prevailing Central Bank of Kenya's average rate for base lending .

7. SETTLEMENT OF DISPUTES

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

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

III. SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of and Supplements to Clauses in the General Conditions of Contract
1.1(i)	The Member in Charge is _____ <i>[name of Member]</i>
1.4 The addresses are	Client: _____ Attention _____ Telephone: _____ Facsimile: _____ Consultant: _____ Attention: _____ Telephone: _____ Facsimile: _____
1.6 The Authorized Representatives are:	For the Client: _____ For the Consultant: _____
1.7 Taxes and Duties	The contract price shall be inclusive of all taxes e.g. withholding and VAT where applicable
2.1 the effective date	The date on which this Contract shall come into effect is(_____) <i>[date]</i> . Note: <i>The date may be specified by reference to conditions of effectiveness of the Contract, such as receipt by Consultants of advance payment and by Client of bank guarantee</i>
2.2	The date for the commencement of Services is _____ <i>[date]</i>
2.3	The period shall be _____ <i>[length of time]</i> . Note: <i>Fill in the period, e.g., twenty-four (24) months or such other period as the Parties may agree in writing.</i>
3.4 The risks and coverage shall be:	(i) Professional Liability: <i>sum assured exceeding the contract price</i> (ii) Loss of or damage to equipment and property: <i>replacement value</i>
6.2(a)	The amount in foreign currency shall be priced in US Dollars <i>[Insert amount]</i> . <i>Exchange rate shall be the Central Bank of Kenya rate on the date of tender opening.</i>
6.2(b)	The amount in local Currency is shall be priced in Kenya Shillings <i>[Insert amount]</i>

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RFP Review Design and Implementation of TOS

6.4 payment	<p>Payments shall be made according to the project phases .Phase I and II shall be costed separately</p> <p>Payments for phase one shall be based on milestones.</p> <p>i. Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of bank guarantee advance payment for the same. The balance shall be paid against deliverables (Milestones as agreed)</p> <p>Payments for phase II shall be based on Cost and reimbursable as agreed in the contract</p>
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IV. Appendices (for information, to be included at time of contract)

APPENDIX A – DESCRIPTION OF THE SERVICES

APPENDIX B – REPORTING REQUIREMENTS

APPENDIX C– KEY PERSONNEL AND SUBCONSULTANTS

APPENDIX D – BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY

APPENDIX E – BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

APPENDIX F – SERVICES AND FACILITIES PROVIDED BY THE CLIENT

APPENDICES

Appendix C : Cost Estimate of Services, List of Personnel and Schedule of Rates.

(1) Remuneration of Staff

	Name	Rate (per month/day/hour in currency)	Time spent(number of month/day/ hour)	Total (currency)
(a) Team Leader				
(b)				
(c)				
				Sub-Total (1)

(2) Reimbursables

	Rate	Days	Total
			Sub-Total (2)

TOTAL COST _____

Physical Contingency _____

CONTRACT CEILING _____

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 7 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

SECTION IV –**CONFIDENTIAL BUSINESS QUESTIONNAIRE****FIRMS REGISTRATION AND OWNERSHIP DETAILS****PART I - PROFILE OF OWNERSHIP**

(i) Name of firm:

(ii) Date of incorporation/registration:.....

(iii) Location of business premises:

Country/Town:.....

Plot No.Street/Road:.....

Postal address:.....

Tel. No.

Nature of Business:

Current Practicing Certificate No.....

Expiry Date:

PART II - TYPE OF BUSINESS

You are requested to give the particulars indicated:

Partnership

Give details of Partners as follows:

No.	Name in full	Nationality	Citizenship details	Shares
1.				
2.				
3.				
4.				

N.B. If Kenyan citizen, indicate under “citizenship details” whether by Birth, Naturalization or Registration.

PART III – PROFESSIONAL STAFF

No.	Name	Position	Function
1.			
2.			
3.			
4.			

Dated at Mombasa thisday of20

Bidder's Signature:.....

KEY PERSONNEL DETAILS

No	Designation	Name	Nationality	Summary of qualifications and experience
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

I certify that the above information is correct.

.....

(Title)

.....

(Signature)

.....

(Date)

(To be signed by authorized representative and officially stamped)

ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE**(Sections 39, 40, 41, 42, 43 & of the PPD Act, 2005)**

I/We/Messrs.....

of Street, Building, P O Box.....

.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender name.....

Tender No

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name and Title of Signatory.....

(To be signed by authorized representative and officially stamped)

DECLARATION FORM (MANDATORY)

Date _____

To _____

_____The tenderer i.e. (name and address) _____
_____ declare the following:

- a) Has not been debarred from participating in public procurement.
- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Title_____
Signature_____
Date

(To be signed by authorized representative and officially stamped)

TENDER SECURITY FORM

Whereas[name of the tenderer](hereinafter 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)

Bank Guarantee for Advance Payment

To
[name of Procuring entity]

[name of tender]

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Contract Data Sheet, 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], 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 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]

[address]

[date]

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.....of20...

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