

REPUBLIC OF KENYA



Meru County Investment and Development Corporation

REQUEST FOR PROPOSAL

CONSULTANCY SERVICES FOR DETAILED DESIGN,
PREPARATION OF BIDDING DOCUMENTS AND
SUPERVISION OF THE REFURBISHMENT OF MERU COUNTY
HOTEL

TENDER NO: MCIDC/RFP/001/2015-2016

CLOSING DATE: 5th NOVEMBER 2015 on or before 10.00A.M

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SECTION I - LETTER OF INVITATION
TENDER No. MCIDC/RFP/001/2015-2016

Dear Sir/Madam,

RE: CONSULTANCY SERVICES FOR DETAILED DESIGN, PREPARATION OF BIDDING DOCUMENTS AND SUPERVISION OF THE REFURBISHMENT OF MERU COUNTY HOTEL

1.1 The Meru County Investment and Development Corporation invites proposals for consultancy services for detailed design, preparation of bidding documents and supervision of the refurbishment of Meru County Hotel.

1.2 The request for proposals (RFP) includes the following documents:

Section I	-	Letter of invitation
Section II	-	Information to consultants
Section III	-	Terms of Reference
Section IV	-	Technical proposal Forms
Section V	-	Terms of Reference
Section V	-	Form of Contract and Standard Contract

One (1) Original and two (2) Copies of the Proposals should be submitted in a plain sealed envelope, clearly marked "Consultancy services for detailed design, Preparation of Bidding Documents and Supervision of the Construction and Refurbishment of Meru county Hotel.". The Proposal should be addressed to;

**THE MANAGING DIRECTOR,
MERU COUNTY INVESTMENT AND
DEVELOPMENT CORPORATION
P.O. BOX P.O 3194 (60-200)
MERU**

Or deposited in the tender box at the ground floor Reception Area, Meru County Investments and Development Corporation office, Meru County Hotel, Meru Town so as to be received not later than **5th November, 2015 at 10.00 A.M.** Bids will be opened immediately thereafter in the presence of bidders or their representatives who choose to attend. Bids that will be delivered after the deadline will be returned unopened.

Yours sincerely

**Managing Director
Meru County Investment & Development Corporation.**

SECTION II: - INFORMATION TO CONSULTANTS (ITC)

2.1 Introduction

- 2.1.1 The client named in the appendix to Information to Consultants “will select a firm among those invited to submit a proposal, 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.
- 2.1.2 The consultants are invited to submit a Technical Proposal and a Design Proposal as specified in the Appendix “A” for consulting services required for the assignment named in the said Appendix. 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 “A” 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 Client will provide the inputs specified in the Appendix “A”, 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 Client employees, committee members, board members and their relative (spouse and children) are not eligible to participate.
- 2.1.7 The price to be charged for the tender document shall not exceed Kshs.1,000/=
- 2.1.8 The Client shall allow the tenderer to review the tender document free of charge before purchase.

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 “A”. 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 its 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) 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.
- (iii) 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 ten (10) years.

(vi) Estimates of the total staff input needed to carry out the assignment supported by bar chart diagrams showing the time proposed for each professional staff team member.

(vii) 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 (Appendix: Section IV). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses such as subsistence (per diem, housing), transportation (international and local, for mobilization and demobilization), services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. 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, 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 60 days from 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 Technical, Design and Financial Proposal (if required) shall be prepared in indelible ink. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorized to sign the proposals.

2.5.2 For each proposal, the consultants shall prepare the number of copies indicated in Appendix to **INFORMATION TO CONSULTANTS**. 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**,” the original and all copies of the Design 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 “A” and be clearly marked, “**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OPENING COMMITTEE.**”

2.5.4 The completed Technical Proposals, and Financial Proposals must be delivered at the submission address on or before the time and date stated in the Appendix “TTC”. 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 “TTC”. 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

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

	Points
(i) General experiences of the consultant in hotel refurbishments and specific relevant projects in hotel refurbishment works related to this assignment	(40)
(ii) Understanding the terms of reference, adequacy of the proposed work plan and proposed methodology in responding to the terms of reference	(20)
(iii) Qualifications and competences of key staff; and specific relevant experiences in hotel refurbishments works related to the assignment	(40)
Total Points	<u>100</u>

2.7.1 Any proposal which will be examined and found not to comply with all the requirements for submission of the proposals will be declared non responsive. All the proposals found to have complied

with all the requirements for submission of proposal shall be declared responsive by the evaluation committee.

- 2.7.2 Each responsive proposal shall 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 it fails to achieve the minimum technical score indicated in the appendix to “TTC”.

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, 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 “TTC”, be as follows:-
 $Sf = 100 \times FM/F$ 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 = I) 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.

The tender evaluation committee shall evaluate the tender within 30 days of from the date of opening the tender.

Contract price variations shall not be allowed for contracts not exceeding one year (12 months). Where contract price variation is allowed, the variation shall not exceed 25% of the original contract price.

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 “TTC”. The aim is to reach agreement on all points and sign a contract.
- 2.9.2 Negotiations will include a discussion of the Design Proposal, 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 Consultant 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 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 shall be disqualified.
- 2.9.4 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.
- 2.9.5 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.
- 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.
- (e) Tax Compliant

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 Client 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 (ITC)

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

E. Data Sheet

A. General	
	<p>Name of the Client: Meru County Investment & Development Corporation</p>
	<p>Financial Proposal to be submitted together with Technical Proposal: No</p> <p>The name of the assignment is: Consultancy services for detailed design, Preparation of Bidding Documents and Supervision of the Refurbishment of Meru County Hotel.</p>
	<p>A pre-proposal conference will be held: No</p>
	<p>The Client will provide the following inputs, project data, reports, etc.</p> <p>All existing information and data, reports and maps as far as available and will assist the Consultant in obtaining other relevant information and materials from governmental institutions and state authorities as far as possible.</p>
	<p>The Client will provide the consultants with the following documents:</p> <ul style="list-style-type: none"> ▪ Terms of Reference as part of this RFP
B. Preparation of Proposals	

	<p>This RFP has been issued in the <u>English</u> language.</p> <p>Proposals shall be submitted in <u>English</u> language.</p> <p>All correspondence exchange shall be in <u>English</u> language.</p>
	<p>Participation of Sub-consultants and Non-Key Experts in more than one Proposal is permissible: No</p>
	<p>Proposals must remain valid for <u>120</u> calendar days after the proposal submission deadline.</p>
	<p>Clarifications may be requested no later than <u>7</u> days prior to the submission deadline.</p> <p>The contact information for requesting clarifications is: Procurement Officer <u>Meru County Investment & Development Corporation</u> P.O Box 3194 (60-200) MERU. E-mail: <u>investment@meru.go.ke</u></p>
	<p>Shortlisted Consultants may associate with non-shortlisted consultant(s): <u>Yes</u></p>
<p>C. Submission, Opening and Evaluation</p>	
	<p>The Consultants shall have the option of submitting their Proposals electronically. No</p>
	<p>Mandatory Requirements:</p> <ul style="list-style-type: none"> (a) Technical Proposal: one (1) original and two (2) copies; Scanned copy of the entire proposal in PDF on CD (b) Certificate of registration/incorporation (c) Relevant Certification with the National Construction Authority. (d) Valid VAT registration and or PIN registration certificate. (e) Valid tax compliance certificate. (f) Audited accounts for the last 2 financial years. <p>All pages of the original Technical Proposal shall be initialed by the same authorized representative of the Consultant who signs the Proposal.</p>

	<p>The Proposals must be submitted no later than: Date: 5th November 2015</p> <p>Time: 10:00am Local Time</p> <hr/> <p>The Proposal submission address is: Managing Director, Meru County Investment and Development Corporation, Ground Floor Reception, Meru county Hotel P.O Box 3194- 60200 MERU.</p>														
	<p>An online option of the opening of the Technical Proposals is offered: <u>No.</u></p> <p>The opening shall take place at: <u>Meru County Hotel Grounds</u></p> <p>Date: 5th November 2015</p>														
	<p>Criteria, sub-criteria, and point system for the evaluation of the Full Technical Proposals: <u>Points</u></p> <p>1. Specific experience of the Consultant (as a firm) relevant to the Assignment: (<i>Consultant to include hotel projects with letters of reference from Clients stating the star rating; nature and value of works; and working telephone and email contact details</i>)</p> <p><i>Sub-criteria:</i></p> <table data-bbox="470 1116 1367 1261"> <tr> <td>a) At least 10 relevant Experience of the hotel refurbishment Projects</td> <td style="text-align: right;">10</td> </tr> <tr> <td>b) Evidence of at least four (4) relevant projects in hotel Refurbishments of at least 3-star rating and above</td> <td style="text-align: right;">30</td> </tr> </table> <p>Total Points for Criteria (1) 40</p> <p>2. Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs):</p> <p><i>Sub-criteria:</i></p> <table data-bbox="470 1526 1350 1634"> <tr> <td>(i) Understanding the Terms of Reference</td> <td style="text-align: right;">5</td> </tr> <tr> <td>(ii) Adequacy of the Technical approach and methodology</td> <td style="text-align: right;">8</td> </tr> <tr> <td>(iii) Work plan</td> <td style="text-align: right;">7</td> </tr> </table> <p>Total points for criterion (1): 20</p> <p>3. Key Experts' qualifications and competence for the Assignment:</p> <p>Architect - Team leader:</p> <table data-bbox="418 1871 1355 1979"> <tr> <td>1.1. Qualifications, Membership to a professional body where Applicable and Registration</td> <td style="text-align: right;">1</td> </tr> <tr> <td>1.2. At least 8 years experience in similar works .</td> <td style="text-align: right;">1</td> </tr> </table>	a) At least 10 relevant Experience of the hotel refurbishment Projects	10	b) Evidence of at least four (4) relevant projects in hotel Refurbishments of at least 3-star rating and above	30	(i) Understanding the Terms of Reference	5	(ii) Adequacy of the Technical approach and methodology	8	(iii) Work plan	7	1.1. Qualifications, Membership to a professional body where Applicable and Registration	1	1.2. At least 8 years experience in similar works .	1
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1.2. At least 8 years experience in similar works .	1														

1.3. Specific relevant experience in at least three (3) hotel Refurbishment projects and supervision of at least two 4-star Hotels	3
Quantity surveyor:	
1.4. Qualifications, Membership to a professional body where Applicable and Registration	1
1.5. At least 8 years experience in similar works	1
1.6. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above	3
Electrical Engineer:	
1.7. Qualifications, Membership to a professional body where Applicable and Registration	1
1.8. At least 8 years experience in similar works	1
1.9. Specific relevant experience in at least three (3)) hotel Refurbishment projects of 3-star rating and above	3
Mechanical Engineer:	
1.10. Qualifications, Membership to a professional body where Applicable and Registration	1
1.11. At least 8 years experience in similar works	1
1.12. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above	3
Civil / Structural Engineer:	
1.13. Qualifications, Membership to a professional body where Applicable and Registration	1
1.14. At least 8 years experience in similar works	1
1.15. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above	3
Interior Designer:	
1.16. Qualifications, Membership to a professional body where Applicable and Registration	1
1.17. At least 8 years experience in similar works	1
1.18. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above	3
Landscape Architect:	
1.19. Qualifications, Membership to a professional body where Applicable and Registration	1
1.20. At least 8 years experience in similar works	1
1.21. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above	3
EIA Expert:	
1.22. Qualifications, Membership to a professional body where Applicable and Registration	1
1.23. At least 8 years experience in similar works	1

1.24. Specific relevant experience in at least three (3) hotel Refurbishment projects of 3-star rating and above

3

Total points for criterion (3):

40

(iv) Transfer of knowledge (training) program (relevance of approach and methodology): 0

Qualification and experience of the key experts: -

Key Experts

a)Architect - Team leader

Must have a degree in Architecture and registered with the Board of Registration of Architects and Quantity Surveyors and a member of Architectural Association of Kenya or any other similar recognized institution(s) and having a current practicing license. A Master Degree for the Team Leader will be an added advantage. Having at least 12 years general experience and 8 years specific experience in design and supervision of similar and relevant projects. Must have been involved in the design of and supervision of two 4 star hotels in same capacity

b) Quantity surveyor

Holder of degree in Building Economics and registered by the Board of Registration of Architects and Quantity Surveyors and a member of Architectural Association of Kenya or any other similar recognized institution(s) and having a current practicing license. Having at least 12 years general experience and 8 years specific experience in quantity Surveying and supervision of similar and relevant projects. Must have held similar position in at least two contracts.

c)Electrical Engineer

Holder of degree in electrical engineering and registered with Engineers Registration Board of Kenya and a member of the Institution of Engineers of Kenya or other relevant institution and having a current practicing license. Having at least 10 years general experience and 8 years specific experience in design of electrical services and supervision of building construction contracts. Must have held similar position in at least two contracts.

d) Mechanical Engineer

Holder of degree in mechanical engineering and registered with the Engineers Board of Kenya and a member of the Institution of Engineers of Kenya or other relevant institution and having a current practicing license. Having at least 10 years general experience and 8 years specific experience in design of building mechanical services and supervision of similar and relevant projects. Must have held similar position in at least two contracts.

e)Civil / Structural Engineer

Must be a structural or civil engineer and registered with the Engineers Board of Kenya and a member of the Institution of Engineers of Kenya or other relevant institution and having a current practicing license. Having at least 12 years general experience and 8 years specific experience in design of buildings and supervision of similar and relevant projects. Must have held similar position in at least two contracts.

f) Interior designer

Must hold a degree in Interior design or Equivalent from a recognized Institution. Having at least 12 years general experience and 8 years specific experience in design and supervision of

Interior design Contracts three of which must be hotels classified as 3 star or above.

g)Landscape Architect

Must hold a degree in Landscape Architecture or Equivalent from a recognized Institution. Having at least 8 years general experience and 5 years specific experience in design and supervision of Interior design Contracts two of which must be hotels classified as 4 star or above.

h) EIA Expert

Must hold a University degree and be registered as a NEMA lead Expert. Having at least 8 years general experience and 5 years specific experience in EIA services.

D. Negotiations and Award	
	<p>Expected date and address for contract negotiations: Date: <u>December, 2015</u></p> <p>Address: <u>Meru County Investment and Development Corporation Offices</u></p>
	<p>The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as following address: www.meru.go.ke</p> <p>The publication will be done within <u>14 days</u> after the contract signing.</p>
	<p>Expected date for the commencement of the Services: Date: <u>December, 2015</u></p>

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 consultant's 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.

TECHNICAL PROPOSAL STANDARD FORMS

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

It shall contain the following

1. Technical proposal submission form
2. Comments and suggestions of consultants on the terms of reference and on data, services and facilities to be provided by the procuring entity
3. Description of the methodology and work plan for performing the assignment
4. Team composition and Task assignments
5. Format of curriculum vitae (CV) for proposed Professional staff
6. Time schedule for professional personnel
7. Activity (work schedule)

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 design Proposal

.

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; _____

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

To be submitted jointly by the Consortium.

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

Technical approach, methodology and work plan are key components of the Technical Proposal. Your Technical Proposal, inclusive of charts and diagrams should include the following:

- a) Technical Approach and Methodology.
- b) Work plan.
- c) Organization and Staffing.

a. Technical Approach and Methodology. In this section you should outline your understanding of the objectives of the assignment; methodology for carrying out the activities and obtaining the expected output and the degree of the details of such output. You should highlight the problems being addressed, their importance and the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.

b. Work Plan. In this section you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and delivery dates of the reports. The proposed Work Plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final outputs including reports, drawings, and tables to be delivered as final output, should be listed.

c. Organization and Staffing. In this section you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key experts and their duties, and proposed technical and support staff].

5. TEAM COMPOSITION AND TASK ASSIGNMENTS

1. Technical/Managerial Staff

Name	Position	Task

2. Support Staff

Name	Position	Task

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

Proposed Position: _____

Name of Firm: _____

Name of Staff: _____

Profession: _____

Date of Birth: _____

Years with Firm: _____ Nationality: _____

Membership in Professional Societies: _____

Detailed Tasks Assigned: _____

Key Qualifications:

[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].

Education:

[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]

Employment Record:

[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]

Certification:

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

[Signature of staff member] Date: _____

[Signature of authorised representative of the firm] Date: _____

Full name of staff member: _____

Full name of authorized representative: _____

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). Field Investigation and Study Items

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

	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)													

(b). Completion and Submission of Reports

Reports	Date
1. Inception Report	
4. Interim Progress Report (a) First Status Report (b) Second Status Report	
3. Draft Report	
4. Final Report	

4 SECTION IV: - TERMS OF REFERENCE

4.1 Background

The Meru County Investment and Development Corporation (MCI&DC) is a statutory body established under the Meru County Investment and Development Corporation Act, 2014. The mandate is to mainly promote investments in various sectors of the County economy including but not limited to tourism and hospitality.

In furtherance of this mandate, the Corporation has received financing from the Meru County Government toward the refurbishment of Meru County Hotel into a modern hotel with at least a 3-star rating standard. The Corporation intends to apply a portion of these funds for eligible payments under the contract for which this Request for Proposals is issued.

This project aims at enhancing the Competitiveness of Meru County hotel through:

- (i) Refurbishment of existing amenities to bring them in line with modern user needs and trends;
- (ii) Introduce necessary extensions to maximize the utilization of the property;
- (iii) Ensure environmental sustainability through design Interventions especially in water and energy management; and
- (iv) General rebranding of the Hotel

4.1 Objectives of the Assignment

The purpose of the Consultancy Services is to

- (i) carry out Architectural, Engineering, Landscape and Interior design so as to achieve the project aims listed above
- (ii) prepare the bidding documents for the works;
- (iii) Provide technical support in procurement of contractors;
- (iii) Assist with obtaining the necessary statutory approvals
- (iv) Supervise the implementation of the works to ensure the hotel attains a three (3) star Hotel Certification and
- (v) Prepare at least two sample rooms for the client to approve of before commencement of works on all rooms.

4.2 The Brief

Meru County Hotel is situated within Meru town along the Main Meru-Nanyuki highway. The hotel has been in operation for over 30 years and comprises 53 guest Rooms, Reception, Bar, Kitchen, Resident and non-resident dining areas, two meeting Rooms and other utilities. It occupies a site of approximately 1.1 acres and fronts two main roads each with a direct access. Over time, the Facilities have experienced dilapidation leading to eventual closure in 2014.

The design Services are expected to include but not limited to the Following:

- a) Refurbishment of Guest rooms and Reception Public Areas;
- b) Furniture, Equipment and soft furnishings;
- c) New parking facilities;

- d) Meeting rooms;
- e) Expansion and modernization of the Kitchen;
- f) New Swimming Pool;
- g) New gymnasium facility;
- h) Staff Offices;
- i) Generator rooms, stores and other ancillary amenities;
- j) Installation on modern Electrical and ICT systems;
- k) Installation of elevators and ramps as necessary;
- l) Upgrading of Adjacent Infrastructure components including Roads, Storm water drains and Sewer as necessary;
- m) Landscaping works; and
- n) Gates, Perimeter walling and other design services the client may recommend.
- o) Any Other services agreed with the client.

4.3 Scope of Services

The scope of services shall be carried out in two phases as follows:

PHASE 1: This phase will comprise of two stages namely Design Stage and Tender Documentation stage as indicated below.

STAGE I: Design Stage

The first part of the assignment shall be to carry out site Surveys, Preliminary and detailed design of the proposed facility. Specifically, the tasks under this stage of the contract will be in the following specialized areas: architectural and interior design; Landscape Design, structural and Civil Engineering; electrical/mechanical engineering and quantity surveying. The tasks will cover the following:

- (i) Analysis of clients goals, safety, Market Surveys, and functional needs;
- (ii) Carry out a detailed inspection of the proposed site;
- (iii) Development of a Preliminary design and Estimates for Discussion and Approval by the Client;
- (iv) Detailed Architectural and Engineering design;
- (v) Obtaining on behalf of the employer necessary statutory approvals for the Project from the relevant authorities;
- (vi) Preparation of working drawings and specifications for the works and equipment.
- (vii) Advise on the selection, matching and installation of furniture, fittings and soft furnishings;
- (viii) Preparation of tender and contract documents; and
- (ix) Providing technical support procurement of a contractor.

STAGE II: Supervision Stage

The main assignment at this stage will be assisting the client in supervising implementation of the project, certification of Contractor's payment certificates and project reports. During this supervision phase, the consultant shall be required to carry out the following tasks:

- a) Administration of the construction contract from commencement of the works to completion of project including defects liability period;
- b) Conduct regular site inspections and site meetings and produce minutes and or reports thereafter.
- c) Prepare financial appraisals and reports as the project progresses;
- d) Prepare project progress reports;

- e) Regularly inspect and approve materials delivered to site;
- f) Inspect the extraction, fabrication or assembly of materials and components to affirm quality of such materials/workmanship before use;
- g) Monitor the progress of the work against the work of the Contractor's program and recommend and report to Client;
- h) Prepare valuations of works carried out and issue payment Certificates; and
- i) Preparation of practical completion certificate and oversee commissioning of the building and take-over by the Client.

Phase 2: Post Construction Services

During this stage the Consultant shall:

- a) Ensure as built-drawings are prepared by the Contractor and give recommendations for maintenance of premises.
- b) Secure/compile maintenance and operational manuals, fire protection certificates etc. for the proper operation of the completed project.
- c) Prepare a defects list and supervise the making good of any defects that develop during the defects liability period.
- d) Prepare Final Accounts.

4.4 Time Schedule

This assignment is expected to take 3 months for design and bidding document preparation and assisting the client in the procurement of works (Phase 1), 18 months for supervision and 12 months defects liability period (Phase 2)

4.5 Personnel

The Consultant shall provide a team of well-qualified and experienced professionals as required and appropriate for completion of the Services. The key professionals shall personally carry out (with any assistance of junior staff deemed appropriate) the Services as described in this TOR.

The Consultant's key professional staffing schedule for the project shall be in accordance with his accepted proposal which forms the basis of the Contract – and the proposal shall be substantially responsive to the requirements stipulated in the Request for Proposals (RFP).

4.6 Method of Selection and Basis of Remuneration

The method of selection is Quality Based Selection. Consultants Remuneration shall be based on **“The Conditions of engagement and scale of fees for Building and Civil Engineering works, 1987 Edition”**

5.0 Reporting Requirements

The consultant shall submit the following reports as detailed in the Table below. All reports and communications related to this assignment shall be in the English language and shall be submitted to the Employer in the number and form specified.

Reports	Submittal Date	Copies	
		Hard Copies	Electronic Copy in CDs
Design Stage			
Inception Report	1 Week after Contract Effective Date	3	1
Preliminary design report	4 Weeks after Contract Effective Date	3	1
Draft Design Drawings	6 Weeks after Contract Effective Date	3	1
Draft Tender documents	8 Weeks after Contract Effective Date	3	1
Final design report	10 Weeks after Contract Effective Date	3	1
Final Tender documents	12 Weeks after Contract Effective Date	3	1
Confidential Cost Estimate	12 Weeks after Contract Effective Date	3	1
Supervision Stage			
Monthly Progress Report	7 Days after end of each month on commencement of works	3	1
Contract Completion Report	2 Weeks after completion of works	3	1
Quarterly progress Reports	Within one Week of the end of the reporting Quarter	3	1
End of Defects Liability Period Report	Within 2 weeks of end of defects liability period of the Whole of the Works	3	1

Services to Be Provided By the Client

All existing information including drawings of existing facilities, data, reports, topographical surveys and maps as far as available and will assist the consultant in obtaining other relevant information and materials from governmental institutions and state authorities as far as possible.

7.0 Institutional and Reporting Arrangements

The consultant will report to the Director; Technical Services

SECTION V:

STANDARD FORMS OF CONTRACT

- a. ANNEX I – LARGE ASSIGNMENTS (LUMP-SUM PAYMENTS)

- b. ANNEX II – LARGE AND SMALL ASSIGNMENTS (TIME -BASED PAYMENTS)

- c. ANNEX III – SMALL ASSIGNMENTS (LUMP-SUM PAYMENTS)

NOTES

- 1. LARGE ASSIGNMENT _____ Exceeding Ksh 5,000,000
- 2. SMALL ASSIGNMENT _____ Not exceeding Ksh. 5,000,000
- 3. TIME BASED PAYMENT _____ Time based fixed fee Exact duration of contract not fixed
- 4. LUMP-SUM PAYMENT _____ Stated fixed contract sum.

(iii)

CONTRACT FOR CONSULTANT'S SERVICES

Large Assignments (Lump-Sum Payments)

Between

[name of the Client]

AND

[name of the Consultant]

Dated: _____*[date]*

(iv)

I. FORM OF CONTRACT

Large Assignments (Lump-Sum Payments)

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 presented 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

(v)

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
 - (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 authorised representative] _____

[Title] _____

[Signature] _____

[Date] _____

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

[Full name of Consultant's Authorized representative] _____

[Title] _____

[Signature] _____

[Date] _____

(vi)

II. GENERAL CONDITIONS OF CONTRACT

1. GENERAL PROVISIONS

1.1 Definitions

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

- (a) “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;
- (b) “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;
- (c) “Contract Price” means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- (d) “Foreign Currency” means any currency other than the Kenya Shilling;
- (e) “GC” means these General Conditions of Contract;
- (f) “Government” means the Government of the Republic of Kenya;
- (g) “Local Currency” means the Kenya Shilling;
- (h) “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;
- (i) “Party” means the Client or the Consultant, as the case may be and “Parties” means both of them;

(vii)

- (j) “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;
- (k) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented;

- (l) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and
- (m) “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.

(viii)

- 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 and 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.
- 2.5 Force Majeure**
- 2.5.1 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.
- 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.

(ix)

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.

2.6 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 anything of value to influence the action of a public official in the selection process or in Contract execution.

(x)

“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.

- (e) If the Client in his sole discretion decides to terminate this Contract.

**2.6.2 By the
Consultant**

The Consultant may terminate this Contract by not less 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 2.6.1 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.

(xi)

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

3.2.1 Consultant (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

Not to Benefit from Commissions, Discounts, Etc.

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 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

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant

**Affiliates
Not to be
Otherwise
Interested in
Project**

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.

(xii)

**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.

(xiii)

**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 Subconsultants").

**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.

(xiv)

(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 Facilities

The Client shall make available to the Consultant the Services and 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

(xv)

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.

**6.4 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.

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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 _____ [name of Member]
1.4	The addresses are: Client: _____ Attention: _____ Telephone: _____ Telex; _____ Facsimile: _____ Consultant: _____ Attention: _____ Telephone; _____ Telex: _____ Facsimile: _____
1.6	The Authorized Representatives are: For the Client: _____ For the Consultant: _____
2.1	The date on which this Contract shall come into effect is(_____) [date]. <i>Note: 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 _____ [date]
2.3	The period shall be _____ [length of time]. <i>Note: Fill in the period, eg, twenty-four (24) months or such other period as the Parties may agree in writing.</i>

(xviii)

3.4 The risks and coverage shall be:

- (i) Professional Liability _____
- (ii) Loss of or damage to equipment and property _____

6.2(a) The amount in foreign currency or currencies is _____ [Insert amount].

6.2(b) The amount in local Currency is _____ [Insert amount]

6.4 Payments shall be made according to the following schedule:

***Note:** (a) This sample Clause should be specifically drafted for each Contract and the following installments are indicative only; (b) if the payment of foreign currency and of local currency does not follow the same schedule, add a separate schedule for payment in local currency; and (c) if applicable, detail further the nature of the report evidencing performance, as may be required, e.g., submission of study or specific phase of study, survey, drawings, draft bidding documents, etc., as listed in Appendix B, Reporting Requirements. In the example provided, the bank guarantee for the repayment is released when the payments have reached 50 percent of the lump-sum price, because it is assumed that at that point, the advance has been entirely set off against the performance of services.*

- Twenty (20) percent of the Contract Price shall be paid on the commencement date against the submission of a bank guarantee for the same.
- Ten (10) percent of the lump-sum amount shall be paid upon submission of the inception report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the interim report.
- Twenty-five (25) percent of the lump-sum amount shall be paid upon submission of the draft final report.
- Twenty (20) percent of the lump-sum amount shall be paid upon approval of the final report.
- The bank guarantee shall be released when the total payments reach fifty (50) percent of the lump-sum amount.

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IV. Appendices

APPENDIX A – DESCRIPTION OF THE SERVICES

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Client, etc.

APPENDIX B – REPORTING REQUIREMENTS

List format, frequency, and contents of reports; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

APPENDIX C– KEY PERSONNEL AND SUBCONSULTANTS

- List under:*
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of Personnel and staff-months for each.*
 - C-2 List of approved Sub consultants (if already available); same information with respect to their Personnel as in C-1.*

APPENDIX D – BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY

List here the elements of cost used to arrive at the breakdown of the lump-sum price – foreign currency portion:

- 1. Monthly rates for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional services.

APPENDIX E – BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

List here the elements of cost used to arrive at the breakdown of the lump-sum price – local currency portion.

- 1. Monthly rates for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

(xx)

This appendix will exclusively be used for determining remuneration for additional services.

APPENDIX F – SERVICES AND FACILITIES PROVIDED BY THE CLIENT